

**11 DCSE2004/0643/F - REMOVAL OF CONDITIONS 19, 20 AND 21 OF PLANNING PERMISSION SE2001/0890/F - PROVISION OF PEDESTRIAN REFUGES AT KNIGHTSHILL FARM, ASTON INGHAM, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7LR**

**For: J P Construction, Gannaway Lane, Tewkesbury, Gloucester GL20 8EY**

**Date Received: 23<sup>rd</sup> February 2004**

**Ward: Penyard**

**Grid Ref: 66733, 22158**

**Expiry Date: 19th April 2004**

Local Member: Councillor H Bramer

**1. Site Description and Proposal**

1.1 Planning permission for the conversion of the barns into 4 dwellings of Knightshill Farm was granted in April 2000. This farm complex is situated on the east side of the B4222 about 1 km from the junction with the A40(T) in the centre of Lea. This intervening section of the Class II road is narrow with a number of bends, with no footway or kerbs and only for short distances level grass verges. The Southern Area Planning Committee on 16th February 2002 delegated the decision to planning officers to negotiate suitable provision for pedestrians. Following a site meeting the applicant's agent submitted a plan showing five pedestrian refuges that were considered to be practicable and conditions were attached to the planning permission to ensure that they were provided. The plan showed 5 refuges at roughly equal intervals of about 100m along the east side of the B4222, the first being about 120m south of Knightshill Farm Barn, the fifth about 70 m. from the start of the footway on the edge of the settlement at Lea. These conditions were as follows:

"11. Prior to the occupation of the dwellings hereby approved, the pedestrian refuge areas, as indicated on the plan and letter submitted to this authority dated 28th February, 2000 (letter reference cfk/1040/pl/17) shall be installed well behind the edge of the carriageway and surfaced with tarmacadam or similar to the satisfaction of the local planning authority.

Reason: In the interests of highway safety.

12. The passing refuges as identified in condition no. 11 shall be located along the straight sections of the adjoining highway or in places where intervisibility between a moving vehicle and a pedestrian is reasonably good.

Reason: In the interests of highway safety.

13. The passing refuges must be maintained in the future in a good and clear condition free from overgrowing vegetation, and the surface kept reasonably free from potholes and puddles.

Reason: In the interests of visual amenity."

An application for revised proposals was submitted in April 2001 which was granted permission on 3rd August 2001. Conditions numbered 19, 20 and 21 replicated nos 11-13 of the earlier permission.

- 1.2 The current application is for removal of condition nos. 19-21 of SE2001/0890/F. The permission has been implemented aside from these conditions. The reasons for this proposal are set out in paragraph 5.1 below.

## 2. Policies

### 2.1 Planning Policy Guidance

PPG13                      Transport

### 2.2 South Herefordshire District Local Plan

Policy T3                      Highway Safety Requirements

## 3. Planning History

- |     |               |   |   |                       |
|-----|---------------|---|---|-----------------------|
| 3.1 | SS990116PF    | Conversion to form 4 residential dwellings.   | - | Permitted<br>03.04.00 |
|     | SS990117LD    | Conversion to form 4 residential dwellings and renovation of house and all other buildings.   | - | Consent<br>03.04.00   |
|     | SE2001/0744/L | Conversion of outbuildings and barns to form 4 No residential dwellings, renovation and conservation of house and all other buildings. (Revised scheme following planning permission reference SS990117LD). |   | 03.08.01              |
|     | SE2001/0890/F | Conversion of outbuildings and barns to form 4 No. residential dwellings - (revised proposal following permission under SS990116PF).  | - | Permitted<br>03.08.01 |

## 4. Consultation Summary

### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

### Internal Council Advice

- 4.2 Head of Engineering and Transportation has no objection to the grant of planning permission.

## 5. Representations

- 5.1 The applicant states:

"1. We have now for several months been attempting to resolve with the Council the practicalities of actually constructing the pedestrian refuges as stated in condition

19. Unfortunately we have been unable to resolve such questions as exactly what these are, how they are to be built, at what locations, on whose land etc.
2. As a result of our meeting with Council Officers and the viewing of the areas in question, I am of the understanding that the road from Knightshill Farm to the pedestrian footpath just outside of Lea village, does not realistically present any location whereby any refuges could practically be sited. There are however, several existing gateways to fields and at least one indentation of the steep verge, together with the new site entrances to Knightshill Farm, which themselves all provide good refuge for any pedestrians.
  3. From a constructional point of view, the Highways Officer advised that he knew of no examples as to the size of a pedestrian refuge, or as to how it should be constructed. He would therefore be unable to issue any "approved" constructional information to enable us to create a refuge, even if locations could have been found. In essence, we could not comply with any standard, as none exists.
  4. We would also wish to record that the number of pedestrians using this lane is either negligible or at its worst, extremely low. Traffic speed is restricted by the very nature of the lane, whilst visibility is very good. It also seems highly unlikely that a pedestrian is going to be at one of the proposed refuges just at the point in time when a vehicle approaches. It is therefore more likely that the vehicle will pass the pedestrian as is the existing situation.
  5. In summary, Herefordshire Council concluded "that there are no precedents for this type of measure and have concerns of the deliverability in this location. they are also concerned over the ongoing maintenance and drainage issues which could result from any such works". We would therefore respectfully request that Condition 19 should be removed from the above Planning Permission."

#### 5.2 Aston Ingham Parish Council's observations are as follows:

- (i) This Council is strongly opposed to the proposal to delete the above conditions, relating to the provision of pedestrian refuges on the roadway below the above development towards Lea.
- (ii) At a meeting on site in February 2000, with the then Agent, CF Knock, District Councillor J Edwards, Mr M Jones (the Principal Planning Officer) and members of the Aubrey family, the then owners of the site, it was agreed that towards pedestrian safety on the narrow roadway and to encourage foot traffic in line with Government Policy, a footpath would be provided on the owner's side of the hedge bordering the roadway. Later it was decided by the Planning Officer, that due to the fact that the land, under the ownership of the Aubrey family, did not extend fully down towards the existing pavement at Lea, by approximately 100 metres, quite inexplicably, as a compromise, four pedestrian refuges should be provided on the southern side of the roadway on land, at that time, in the ownership of the vendor of the site of the development. In consequence, the pedestrian refuges were incorporated in the Conditions of the Planning Permission in August 2001. The matter was reported in the Ross Gazette of the 24th February 2000.
- (iii) The Conditions of the Permission clearly state that prior to occupancy of new properties, the refuges should be provided. Nevertheless, the Developer saw fit

to ignore the conditions and the contractors left the site, without any action being taken by the Planning and Enforcement Officers.

- (iv) In the Agent's letter to Herefordshire Planning Services, dated 6th January 2004, it is stated that foot traffic is negligible and traffic speed is regulated by the narrowness of the roadway. Regarding vehicle speeds on this roadway, it is in no way regulated by the nature of the roadway, as frequent users of this route from Lea to Aston Crews and beyond well know. This roadway is still designated the B4222, it has no speed limit apart from the National 60mph limit for single carriageway roads. It serves as a corridor between the junction of the roadway with the A40 and the B4222 at Aston Crews towards Kilcot and the B4221. Traffic on this road can consist of commercial vehicles of all types and sizes including articulated vehicles, as well as motor cars and at times, by very large tractors and farm trailers.
- (v) Regarding the Agent's complaint of lack of specification of the design of the refuges; it is surely not beyond the wit of the highways Department to offer a reasonable specification, for example:

The pedestrian refuges shall not be less than 5 metres long and shall set back not less than 1.25 metres from the edge of the roadway. The refuges shall be surfaced with crushed rubble or other suitable hard standing. Kerbing of the road edge shall be at the Highways Department's discretion.

- (vi) Please see attached cutting from Ross Gazette dated 24th February 2000.
- (vii) The Council reiterates its objection to the Application for the removal of the Conditions."

The newspaper cutting referred to is attached as an Appendix to this report.

- 5.3 Lea Parish Council strongly objects otherwise there have not been any comments.
- 5.4 One letter has been received objecting to the removal of these conditions. In summary the following points are made:
- (1) the objector was formerly ward councillor and later parish councillor and has considerable knowledge of these planning applications.
  - (2) The original letter from the applicant proposing 5 refuges is referred to and it is pointed out that the meeting at which this was agreed included the then owners of the farm, ward member and Divisional Planning Officer (South). Their deliberations should not be lightly set aside.
  - (3) Knightshill lane (section of B4222) carries a significant amount of heavy traffic and used as rat-run to M50.
  - (4) I have walked route many times and it is just not safe for pedestrians - video tape shows exactly the dangers involved.
  - (5) Developers were aware of conditions and should have applied to remove conditions when first taking over the project and any genuine difficulty should have been referred to Highways - it could have been sorted out: they are not being required to build the Taj Mahal.
  - (6) Should have been Grampian conditions as should have been foreseen that developers would try to wriggle out of them.

A copy of the letter to which reference is made is also included as an Appendix.

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

**6. Officers Appraisal**

- 6.1 The need for a footway between the barns of Knightshill Farm and Lea was discussed by the Southern Area Planning Sub-Committee in connexion with the earlier application. For reasons of practicability and/or need the Committee did not accept that this was an essential part of the development but indicated that some provision for pedestrians should be made. The applicant’s agent suggested 5 pedestrian refuges and these were required by conditions attached to the planning permission.
- 6.2 The concern of the Parish Council is appreciated. For much of this section of road there is no level grass verge. The eastern side of the road has a steep bank 2 m. high or more and in part the hedgerow is close to the carriageway. The western side has narrow verges which again are not level. Consequently pedestrians would have difficulty stepping on to the verge if required by on-coming traffic. Nevertheless the solution is a footway and as noted above this was not considered necessary by the Committee : it would have required considerable engineering works and have been very intrusive in the countryside. This would not have been a reasonable requirement in relation to the development of just 4 residential units. The option adopted of 5 short refuges would provide only limited help : the emergency requiring pedestrians to step off the carriageway would have to coincide with the section of road with a refuge and yet these could most readily be provided (and some are proposed) at the points along the highway that have verges useable by pedestrians. The refuges would therefore provide little additional help to pedestrians. On the other hand the Head of Engineering and Transportation has expressed concern that forming hard surfaced refuges with the necessary kerbing could add to hazards by effectively narrowing the carriageway.
- 6.3 On reflection the conditions themselves are not considered to meet the test of DoE Circular 13/95 in that nos. 19 and 20 are not precise and the applicant understandably has had to enquire what he is required to do. Furthermore no. 21 is unreasonable in requiring part of the public highway to be maintained by a developer. It is open to the Committee to correct these matters and issue a fresh permission nevertheless for the reasons given above it is recommended that this application to remove the conditions be granted permission.

**RECOMMENDATION**

**That planning permission be granted. No conditions.**

**Informative:**

**1 N15 - Reason(s) for the Grant of Planning Permission.**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.