

**DCNE2003/3874/F - DEMOLITION OF EXISTING  
DWELLING AND ERECTION OF THREE NEW  
DWELLINGS AT OAK TREE COTTAGE, WELLINGTON  
HEATH, LEDBURY, HEREFORDSHIRE, HR8 1NA**

**For: Miton Ltd per Ian Guest & Associates, 3 Juniper  
Way, Malvern Wells, Worcestershire, WR14 4XG**

**Date Received:  
24th December 2003**

**Ward:  
Hope End**

**Grid Ref:  
71313, 40718**

**Expiry Date:  
18th February 2004**

**Local Member: Councillors R Stockton and R Mills**

## **Introduction**

**This application was deferred at the previous meeting to enable further negotiation with the applicant to secure relocation of the dwellings on Plots 1 and 2, 3m further forward on the site, and to save the Yew Tree. The applicant maintains that it is not possible to do so and be able to manoeuvre vehicles on site to exit in a forward gear as required by a previous outline condition.**

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

- 1.1 The application site is a triangular shaped piece of land at the northern end of Wellington Heath, situated within the Settlement Boundary as identified in the Malvern Hills District Local Plan. The site is approximately 0.2 hectares in extent and is bounded to the west by the C1157 and to the south by the unclassified 66402 road. The roadside boundaries consist of native hedge and within the site are a number of other trees, mainly fruit trees but also a Yew Tree adjacent to the existing property lying on the western boundary of the site. The site slopes markedly from the boundary with the C class road to the boundary of the unclassified road. The site lies within the Area of Outstanding Natural Beauty and Area of Great Landscape Value.
- 1.2 This application follows the grant of outline planning permission for three dwellings in December 2002. The current application had been submitted as a reserved matters application, however, due to minor changes in the position of the access and dwellings which were not reserved as part of the outline application, it must be considered as a full application.
- 1.3 The proposal is for the erection of three detached dwellings in similar positions to those previously approved. The design utilises the sloping nature of the site, and requires considerable excavation. The design also picks up from elements of the properties on the opposite side of the minor road. The properties are all three bedroom, with the main entrance and one of the bedrooms situated at the ground floor. The majority of the accommodation is at first floor level. Hipped roofs are utilised to reduce the impact of the properties.

## 2. Policies

### Malvern Hills District Local Plan

Housing Policy 3 – Settlement Boundary  
Housing Policy 17 – Residential Standards  
Landscape Policy 2 – Areas of Outstanding Natural Beauty  
Landscape Policy 3 – Development in Areas of Great Landscape Value

### Herefordshire Unitary Development Plan (Deposit Draft)

Policy H6 – Housing in Small Settlements  
Policy LA1 – Areas of Outstanding Natural Beauty  
Policy LA3 – Setting of Settlements  
Policy LA5 – Protection of Trees, Woodlands and Hedgerows

### Other Guidance

Planning Policy Guidance Note 3 – Housing  
Planning Policy Guidance Note 7 – The Countryside, Environmental Quality and Economic and Social Development

## 3. Planning History

NE02/3033/O – Outline Planning Permission for three dwellings granted 18<sup>th</sup> December 2002 (including demolition of existing cottage).

NE2000/3385/O – Demolition of existing dwelling and site for erection of two new dwellings and ancillary garages. Outline Permission granted 13<sup>th</sup> March 2001.

## 4. Consultation Summary

### Statutory Consultations

4.1 Hyder – no response.

### Internal Council Advice

4.2 Head of Engineering and Transportation recommends that any permission be subject to conditions.

4.3 The Chief Conservation Officer advises that given the previous Outline Planning Permission it is considered that comments must be restricted to the possibility of retention of the fine multi-stemmed ash along the eastern boundary. This is shown for retention though may be difficult given the access position that this tree could be retained. If however the applicant can demonstrate that the tree can be protected I would be pleased to discuss this.

## 5. Representations

5.1 Wellington Heath Parish Council: Reference is made to the differences to the layout approved during the outline application stage. They are concerned that the dwellings are located further up the site again, and that this has increased visual intrusion, and requires removal of the Yew tree (at variance with committee requirements previously).

Moving the access southwards threatens the Wild Service tree.

They consider that conditions imposed on the outline permission have not been adequately addressed.

More recently they have commented further as follows: They remain of the opinion that this is overdevelopment. That as the applicant did not appeal against outline conditions it must be assumed that they are reasonable and capable of compliance. They therefore recommend refusal unless

- 1) The Yew tree is preserved
- 2) The slab heights of any dwellings are such that views to the Malvern Hills from Ledbury Road and the Oak Tree are not obstructed, and that visual intrusion of the dwellings is minimised.

They considered that this can be achieved by moving Plots 1 and 2 3m eastwards and required deeply excavated slab levels.

If approved, they consider that all outline conditions should be re-imposed, plus materials, exterior lighting and restriction on use of the unauthorised access.

The applicant should arrange for any waste to go to Robins Hill Quarry 200m away.

5.2 The Area of Outstanding Natural Beauty Officer – no response.

5.3 In support of the application the applicant and agent advise:

3 dwellings on 0.2 ha is half the density required by PPG3.

The proposal is for 2-storey dwellings, not the 2½ -storey envisaged at outline stage – a net reduction in the height of the development.

The dwelling position has been moved further up the site to facilitate vehicle manoeuvring within the plots, which otherwise could not happen. The visual impact is reduced, as the previous 'sea of roofs' would be softened by brick and window relief below.

The Yew tree is a one off and offers little screening due to its shape. The poisonous nature is such that it would be preferable not to have it in a garden. The opportunity to impose a TPO arose a couple of years ago but adjudged inappropriate.

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 Although this application does not strictly conform to the conditions nor approved matters at outline stage, the outline planning permission is a material consideration in the determination of this application. The minor changes to the position of the dwellings has largely been due to the need to be able to turn vehicles on site which could not happen under the previous siting. The vehicular access has been moved slightly further south than previously agreed and as a consequence makes it more likely that the Ash tree can be retained.

- 6.2 Since the development of the site for three dwellings has already been regarded as acceptable in principle the main points for consideration in this application relate to the privacy and amenity issues of nearby residents, the scale and design of the development and the landscape issues. It is considered that despite the elevated nature of the site there will be no undue loss of privacy or amenity to occupiers of the properties on the opposite side of Common Road as a result of this development. Although the main living area is at first floor level and that balconies are included on the design these do not give cause for concern.
- 6.3 The design of the properties themselves are not dissimilar to the relatively modern properties on the opposite side of Common Road. In terms of scale of the properties by modern terms ridge heights of under 7 metres are very modest. Furthermore, the landscaping proposed and excavation of the site mean that the development would not impinge unreasonably on the character and visual amenity of the Area of Outstanding Natural Beauty and Area of Great Landscape Value.
- 6.4 Many of the concerns expressed by the Parish Council relate to conditions imposed on the Outline Planning Permission. Whilst that Outline Planning Permission is a material consideration, this application cannot be regarded as an application of reserved matters and those particular conditions if still appropriate, can be re-imposed. Reference is also made to the Yew tree on site. This is situated very close to the existing cottage which is to be demolished. The submitted layout plan indicates that this Yew tree is to be removed. Consideration was given at the time of the original Outline Application under code NE2000/3385/O for a Tree Preservation Order but no such Order exists. Given there is existing tree cover on the site the contribution of this Yew tree to that cover is not great. Consequently it is not considered that its loss is of sufficient weight to merit refusal of the application on that ground alone.

## **RECOMMENDATION**

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

**1 - A01 (Time limit for commencement (full permission) )**

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

**2 - A06 (Development in accordance with approved plans )**

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

**3 - B01 (Samples of external materials )**

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

**4 - H01 (Single access - not footway )(5 metres)**

**Reason: In the interests of highway safety.**

**5 - H03 (Visibility splays )(2 x 33 metres)**

**Reason: In the interests of highway safety.**

**6 - H09 (Driveway gradient )**

**Reason: In the interests of highway safety.**

**7 - H12 (Parking and turning - single house )(3 cars per house)**

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

**8 - H26 (Access location )(The Common)**

**Reason: In the interests of highway safety.**

**9 - No development shall take place until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.**

**Reason: To safeguard the landscape character of the site.**

**10 - No development shall be commenced on the site or machinery or materials brought onto the site for the purpose of development until adequate measures have been taken to prevent damage to those trees which are to be retained. Measures to protect those trees shown must include:**

**(a) Fencing, of a type and form agreed in writing with the local planning authority, must be erected around each tree or group of trees. This fencing must be at least 1.25 metres high and at a radius from the trunk defined by the canopy spread.**

**(b) No excavations, site works, trenches, channels, pipes, services, temporary buildings used in connection with the development or areas for the deposit of soil or waste or for the storage of construction materials, equipment or fuel or other deleterious liquids shall be sited within the crown spread of any tree without the prior written consent of the local planning authority.**

**(c) No burning of any materials shall take place within 6 metres of the furthest extent of the canopy of any tree or tree groups to be retained.**

**(d) There shall be no alteration of soil levels under the crown spread of any tree or group of trees to be retained.**

**Reason: To ensure adequate protection to existing trees which are to be retained, in the interests of the character and amenities of the area.**

**11 - G19 - Existing trees which are to be retained**

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

- 12 - Any damage caused to any tree which it has been agreed shall be retained shall immediately be notified to the local planning authority and any such remedial work as is advised by the Authority shall be undertaken immediately. As soon as possible thereafter such further work as is necessary to secure the preservation of the tree shall be undertaken in accordance with BS 3998:1989 Tree Work.

Reason: The trees form an integral part of the visual environment and this condition is imposed to preserve the character and amenities of the area.

- 13 - 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.

- 14 - The existing dwelling known as Oak Tree Cottage shall be demolished prior to work commencing on the construction of the new dwellings hereby permitted.

Reason: To clarify the terms of this permission.

- 15 - G01 (Details of boundary treatments)

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

- 16 - E01 (Restriction on hours of working)

Reason: To safeguard the amenities of the locality.

- 17 - E16 (Removal of permitted development rights) (delete 'fence/gates')

Reason: In order to clarify the terms of this permission.

**Informatives:**

- 1 - HN1
- 2 - HN4
- 3 - HN5
- 4 - HN10
- 5 - HN13
- 6 - HN22
- 7 - N15 - Reason(s) for the Grant of PP/LBC/CAC

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.