

12 DCSE2004/2133/F - CHANGE OF USE FROM FORESTRY COMMISSION LAND TO DOMESTIC GARDEN BY MOVING THE EXISTING FENCE AT LAND ADJOINING OWL BARN, BAILEY LANE END, ROSS-ON-WYE, HEREFORDSHIRE HR9 5TR

For: Mrs. C. Atkins, Owl Barn, Bailey Lane End, Ross on Wye, Herefordshire HR9 5TR

Date Received: 14th June, 2004 **Ward: Penyard**

Grid Ref: 64241, 20030

Expiry Date: 9th August, 2004

Local Member: Councillor H. Bramer

1. Site Description and Proposal

- 1.1 Owl Barn is within a small cluster of dwellings at Bailey Lane End. A vehicular access off the nearby Pontshill - Drybrook road has been formed to the north of the property. To the south a pedestrian gate leads onto a narrow grassed area between adjoining properties, Nuttshell and semi-detached dwellings, Elemlough and Hazel Cottage. The rear walls of the latter houses adjoin this area of land. The southern boundary of the site adjoins a track which serves a number of properties. This small area of land, about 12m x 4 m, is currently owned by the Forestry Commission. The proposal is to change the use of this small area to incorporate it into the curtilage of Owl Barn.
- 1.2 The rear wall of Hazel Cottage has a ground floor window which looks directly over the application site. Vehicular access to Nuttshell is via a short drive across the southern part of the application site which leads off the track referred to above.

2. Policies

2.1 Hereford and Worcester County Structure Plan

Policy CTC2 - Area of Great Landscape Value

2.2 South Herefordshire District Local Plan

Policy C8 - Development Within Area of Great Landscape Value

3. Planning History

- 3.1 There have not been any recent applications relating to this site.

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 permission which would not appear to affect public footpath HM22A.

5. Representations

5.1 The applicant makes the following statement:

- (1) It is proposed that I purchase a small parcel of land measuring 12 metres x 4 metres narrowing to 3 metres which is immediately outside my garden fence.
- (2) The Forestry Commission currently owns the land that consists only of rough grass that is maintained by me. Up to the end of the eighties, it provided sole access to this property.
- (3) The Land Agent has visited the property and stated "I would not see sale of this very small area as being controversial".
- (4) Also enclosed are two photographs of the area.
- (5) The intention is to move the existing post and rail fence to the southern boundary of the area. This would encompass the rough grassland into my garden. The fence is 1 metre high.

5.2 Weston under Penyard PC has no objection to the proposal.

5.3 Hope Mansell PC is unanimously opposed to this application. There are several issues of access for maintenance to adjoining properties, together with some doubt as to the ownership of the strip of land itself. Furthermore, part of the initial agreement of sale between Mrs Atkins and the Forestry Commission stipulates that all local residents that are affected by this possible sale must be notified in writing and their written agreement obtained. To date this has not been done.

It should be noted that the application site straddles the parish boundary.

5.4 Two letters have been received from Mr. and Mrs. Nutt, of Nuttshell. The following concerns are raised:

- (1) Proposal has serious issues of access for the three adjacent houses.
- (2) Inaccurate site plan.
- (3) In view of serious affect on access and that straddles parish boundary imperative that this is discussed at site visit with case officer before proceeding with proposal.

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 This small area of land is surrounded on three sides by residential properties and on the fourth by an access track. In principle the change of use to domestic curtilage would not harm the rural character of this area. The main issues are the effect on the amenity of neighbours and on access to adjoining properties. These issues are considered together.
- 6.2 The window in Hazel Cottage and vehicular access to Nuttshell are referred to in paragraph 1.2 above. It is understood that the new fence line would be positioned to the north of the window and access. This would minimise any loss of privacy and ensure that vehicular access to Nuttshell was not blocked. It is apparent that the application site is currently being used to gain access to both Owl Barn and Nuttshell. The question of right of access is essentially a legal matter, which would not normally be effected by the grant of planning permission. In these circumstances it is not considered that there are sufficient grounds to refuse planning permission.

RECOMMENDATION

That planning permission be granted subject 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 No development shall take place until details of the proposed post and rail fence including its position and height 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 define the terms of this permission.

- 3 E16 (Removal of permitted development rights)**

Reason: To protect the amenities of neighbours.

Informative:

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

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.