

MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMS/112643/F - PROPOSED ERECTION OF TWO FAMILY DWELLINGS AT WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN</p> <p>DMS/113213/G – DISCHARGE OF PLANNING OBLIGATION – SH920169PO ERECTION OF ONE BUNGALOW AT WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN</p> <p>For: Messrs Paton per Mr Paul Lodge, Jamieson Associates Architects, 30 Eign Gate, Hereford, HR4 0AB</p>

Date Received: 23 September 2011 **Ward: Backbury** **Grid Ref: 357633,234743**
Expiry Date: 24 November 2011
Local Member: Councillor J Hardwick

INTRODUCTION

The application was deferred by Members at the Planning Committee meeting on 11 January 2012 in order for a site visit to be undertaken. This was carried out on 1 February 2012. In response to comments made by Members, additional information concerning the Root Protection Zones of protected trees has been provided and in view of the desire to have greater understanding of the Section 106 Agreement restricting development on the site, this is now a joint report including the application to discharge the planning obligation on the site. The report is now seeking a determination in respect of both applications

In addition to this, the applicant’s agent has provided a response to the objections received and this is set out at paragraph 5.4 below.

1. Site Description and Proposal

1.1 The 0.198 hectare site lies between a bungalow known as Westholme and the residential development of Scotch Firs on the northeastern side of the B4224, within the main village of Fownhope. The site is within the village’s Conservation Area and the Wye Valley Area of Outstanding Natural Beauty. The site comprises part of the residential curtilage of Westholme and is predominantly laid to lawn with boundary hedgerows of differing heights and two fruit trees. There are two trees adjacent to the existing site access, one being within the application site, the other in front of Westholme. Both are the subject of Tree Preservation Orders. The land levels rise up into the site from the road. The surrounding land is in residential use.

- 1.2 It is proposed to erect two detached dwellings with double garages and a shared access driveway that would link into the existing vehicular access off the B4224. The proposal includes the improvement of the existing access to increase the visibility splay to 90 metres in both directions.
- 1.3 The proposed dwellings would have identical floor plans and a crucifix footprint. At ground floor, in a single storey section to the front of the properties there would be a double garage linked to a study and in the two storey section of the dwellings there would be a living room, open plan dining/kitchen area, snug, hall, utility and cloak room with four bedrooms above with two ensuite facilities, dressing room and a family bathroom.
- 1.4 Amended plans have been received which have relocated the ensuite bathrooms to the rear of the properties, reduced the height of the dwellings from 8.1 metres to 7.5 metres and resited the dwellings further into the site away from the south-eastern boundary with Scotch Firs. The proposed dwellings would be relatively modern in design and externally would be finished in timber boarding with light and 'traffic' grey colour stain and natural slate roofs.
- 1.5 The site has a substantial planning history with applications being refused and dismissed on appeal for residential development of the site. Planning permission was granted in 1992 (SH920169PO) for a dwelling and garage (the property now known as Westholme). This permission was subject to a Section 106 Obligation stating that no further residential development would be constructed on the site.
- 1.6 Alongside the planning application for the 2 new dwellings, a separate application (Ref DMS/11321/G) has been submitted to discharge the requirements of this legal agreement on the basis that it no longer serves a useful purpose. This is because when the Section 106 Obligation was entered into the site lay outside of the Fownhope settlement boundary and therefore was in the open countryside. In respect of the consideration of this separate application there has been a significant change in planning policy, as the site is now within the main village of Fownhope, as defined in the Herefordshire Unitary Development Plan.
- 1.7 The specific clause in the Section 106 Agreement states that "*No further dwelling may be constructed nor mobile home intended for permanent occupation sited upon the property*"

2. Policies

2.1 National Planning Guidance:

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS5	-	Planning for the Historic Environment
PPS7	-	Sustainable Development in Rural Areas
PPS9	-	Biodiversity and Geological Conservation

ODPM Circular 05/2005 Planning Obligations 18 July 2005

2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations

Further information on the subject of this report is available from CL Atkins (Mrs) on 01432 260536

H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Area
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H16	-	Car Parking
LA1	-	Areas of Outstanding Natural Beauty
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
HBA6	-	New Development Within Conservation Areas
HBA9	-	Protection of Open Areas and Green Spaces

3. Planning History

- 3.1 SH861299/PO Residential development for 10 two storey dwellings. Refused 21 January 1987. Appeal dismissed 27 October 1987.
- 3.2 SH880607/PO Residential development for 6 dwellings. Refused 29 June 1988. Appeal dismissed 27 October 1988.
- 3.3 SH891775/PF Two proposed dwellings. Refused 6 October 1989. Appeal dismissed 2 May 1991.
- 3.4 SH920169/O Erection of one bungalow. Approved 20 August 1992 subject to a S106 Agreement restricting further residential development.
- 3.5 SH921165/RM New bungalow and double garage. Approved 22 October 1992.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objections, recommends conditions.

Internal Council advice

- 4.2 Traffic Manager: Recommends conditions. 90 metres visibility is achievable to the north, but will require the removal of a section of hedgerow to the south. Set back of 2.4 metres is required to enable drivers to gain visibility.
- 4.3 Conservation Manager: No objection. The subdivision of the plot is consistent with the surrounding area. The dwellings would be quite prominent due to the sloping nature of the site, but they aspire to a quality of architectural expression which will justify this visibility. The scheme's re-interpretation of suburban norms is refreshing. The site can accommodate two dwellings without a significant landscape impact on the setting of the settlement. The tree survey and landscaping are suitable. With regards to the amended plans, which include the encroachment of Plot 1 under the tree canopy of a protected tree, this is not ideal for such an old tree that is already in decline. An Arboricultural Method Statement should be provided. With regard to comments raised in respect of the potential impact upon the habitat value of the site, the Senior Ecologist advises that in this instance, a working method statement and habitat enhancement scheme would provide appropriate protection for any nature conservation interest on the site.

5. Representations

Representations received in respect of DMS/112643/F

- 5.1 Fownhope Parish Council: Concerned regarding the scale of the dwellings, which would be surrounded by bungalows. Single storey development would be better. There is a restriction on the land preventing further development. Minded to support subject to the suggested amendment and providing there is no restriction preventing development.
- 5.2 Amended plans: scale of development is still unsupported and plot now encroaches into root protection zone, so is not supported. Until Section 106 Agreement has been officially discharged no development can be granted.
- 5.3 Letters of objection have been received from 12 local households; some have sent more than one letter. The main points raised, in summary are:
- The development would be overbearing, overshadowing, would reduce privacy and views.
 - The access is dangerous and increased use would make this worse.
 - Not appropriate for two storey dwellings due to surrounding development being single storey and the site being within the Conservation Area and the Area of Outstanding Natural Beauty.
 - Trees on site are subject to Tree Preservation Orders. One has been reduced in height, so predicted root zone would be inaccurate.
 - Ecological Survey/Environmental Impact Assessment is required.
 - Development would reduce property values in Scotch Firs.
 - Government discourages 'garden grabbing'
 - Land is an important area of open space that has been used by the village for public events historically.
 - Development is for financial gain.
 - Affordable homes and/or bungalows would be preferred.
 - Existing sewerage system does not have the capacity for further development.
 - Other sites in the village are more suitable for the development.
 - Bungalows in Scotch Firs have not been allowed to be extended to provide first floor accommodation by the Council.
 - Permission has been previously refused for residential development of the site.
 - Legal agreement prevents residential development of the site.
- 5.4 Since the consideration of the application on 11 January 2012, the applicant's agent has provided the following comments on each of the bullet points raised above:
- There will be no overlooking or overshadowing as can be seen from drawings – 3900.P10 in particular. Views are not a material planning issue.
 - There are 50 dwellings in Scotch Firs which could mean 100 cars exiting onto the B4224, directly opposite the car park to the village shop. This is often exacerbated by on street parking either side of the car park entrance. The proposed entrance to Westholme will comply with the Council's Traffic Manager's requirements and he has raised no objections.
 - To the immediate south of the site and the B4224, all properties are two storeys in height. On the north side of Scotch Firs, to the rear of the proposed site, all properties are two storeys including one two storey flat roofed property. To the south east of the site, there are a mix of single and two storey properties. The above objection therefore is inaccurate.
 - The radius of the protected root zone is calculated by diameter of tree trunk x 12. Reduction in height therefore is totally irrelevant. An Arboricultural Impact Assessment has been carried out and forms part of this application.
 - No request for Ecological Survey/Environmental Impact Assessment has been made – the site is a private garden!

- Scotch Firs is a 1960's suburban development of little architectural merit. In the circumstances, it is likely that the proposed development would enhance the value of existing properties.
- At present, Westholme sits in 0.6 hectares and after development, would remain in 0.4 hectares. By any standards this still represents a large garden. In addition, the Local Authority has raised no objection in principle.
- The land in question is part of a privately owned garden area and the village has no rights legal or otherwise, over its use.
- Agreed. In any event, financial matters are not a material planning issue.
- Two storey detached properties form the bulk of the historic fabric of the village. Bungalows are essentially a 1960's intrusion and all are excluded from the Conservation Area.
- No objections have been made by either Welsh Water or the Environment Agency.
- This is the only site in the centre of the village with development potential and, more importantly, in the ownership of my clients.
- Irrelevant to this application. Planning history does not necessarily blight future development.
- Policies change.
- This presumably refers to a previous Section 106 Agreement taken out when Westholme was granted permission. At that time, the land was not within the village envelope and as that is not now the case, the Section 106 has no relevance. Application for its removal has been made.
- Scotch Firs is a typical 1960's suburban housing scheme with little or no architectural merit. As such it is no standard bearer for any future development. The proposed development has endeavoured to provide two well designed but modern family homes, using traditional sustainable materials but in a contemporary way. The two buildings have been deliberately broken up into smaller elements to reduce scale and mass and to allow them to nestle into the landscape. Their design aims to provide a minimum of Level 3 of the Code for Sustainable Homes.

5.5 A Design and Access Statement and a Tree Survey and Arboricultural Constraints Report were submitted with the application. In summary these state:

- The site is within the settlement boundary and the principle of development is acceptable.
- The dwellings would be unashamedly modern in appearance whilst retaining a traditional form and composition. They would sit comfortably in their landscape and in the Conservation Area.
- Dwellings have been located on their plots to respect the position of Westholme and the staggered line of development in Scotch Firs.
- Plot 1 has been sited to provide adequate distance to Scotch Firs and to protect the root zone of the protected trees.
- High quality design is proposed, which will blend traditional and contemporary. Reference has been taken from Hope House, within the village.
- Dwellings would achieve Level 3 of the Code for Sustainable Homes, with ground source heat pumps with under floor heating, recycling grey water systems and porous bound gravel to driveways and parking areas. Whole house ventilation systems with heat recovery will be incorporated into the design. Highly insulated timber frame is proposed.
- Natural slates are proposed, which are considered appropriate for this location. Timber boarding stained in shades of grey and slim line aluminum for the glazed link between the garage and study are proposed.
- Native hedgerow, trees and shrubs are proposed within the site and to the boundaries.
- These family homes would be sited in a thriving village and would be sustainable through their design and location.

Representations in respect of DMS/113213/G

- 5.6 Fownhope Parish Council: Object to any move at this stage to rescind the planning obligation on this site. The site forms an important element within Conservation Area and is critical feature of gateway into the village. Planning consent was granted for a bungalow, Westholme in 1992, subject to this Section 106 Agreement and that no development would take place on the land between Westholme and the bungalows in Scotch Firs. The public are entitled to take comfort in this planning obligation. Alteration of the village envelope/policy boundary in the UPD in 2002 is not in itself sufficient reason to discard an obligation entered into freely by the developer and intended to safeguard the visual amenity of the village.
- 5.6 19 letters of objection have been received from local households; some have sent more than one letter, and a 90 signature petition has been received objecting to the removal of the obligation. The main points raised, in summary are:
- Obligation does not have any time constraints or terms or conditions attached indicating it would be changed at any time.
 - Obligation states that “with the object and intent of binding the property into whosever hands the same may come”. The obligation was made on the understanding it was permanent there is therefore no justifiable reason why this obligation would suddenly not be required or have changed in anyway.
 - Application states “site now lies within the village of Fownhope and the section 106 is no longer relevant”. Surely it has always been in Fownhope and in any case the reason for the original agreement on entering the Section 106 obligation is still there?
 - Should any modification be made to the obligation the following should be prevented; construction of anything other than bungalows on the plot; any disturbance to the 3 protected trees mitigated; any disturbance to the slow worms in the boundary hedge be addressed.
 - The site is located in a Conservation Area. Houses would not be conducive to the area which is surrounded by bungalows.
 - One of the three trees, which are protected, would be compromised by moving one of the houses nearer to the road and into the canopy of the tree.
 - The environmental issues as yet have not been addressed – no ecological study.
 - Overload of the sewage plant.
 - Further traffic congestion at the junction of Scotch Firs and the B4224
 - Loss of light and personal privacy
 - Devaluation of properties
 - Earlier reasons for refusing development on the site still apply i.e. AONB, Conservation Area, Highway and Landscape Protection.
 - The proposal will not comply with section 9.4.7 LA1 (Areas of Outstanding Natural Beauty) and does not fall within one of the exceptions listed.
- 5.8 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer’s Appraisal

- 6.1 The main considerations in the determination of these applications are the principle of the development, the impact of the scheme on the character and appearance of the Conservation Area and Wye Valley Area of Outstanding Natural Beauty, the affect on the neighbouring properties, highway safety, the affect on protected trees, the capacity of the sewerage system and the extent to which the original Section 106 Agreement continues to serve a planning purpose given the fundamental change in planning policy since 1992. For ease of reference the appraisal and subsequent recommendations are split into 2 sections dealing in turn with the planning application and the discharge of the S106 Agreement.

- 6.2 The site lies within the settlement boundary for Fownhope. As such policy H4 of the Herefordshire Unitary Development Plan (HUDP) applies. This policy states that residential development is acceptable, subject to compliance with other relevant policies of the Plan. The existence of the Section 106 Obligation is noted. The linked application has been submitted to discharge this, because it is contended that it no longer serves a useful purpose as the site is now within the defined main village. The latter application is considered in greater detail later in the Appraisal but for the purposes of determining the application for the 2 new dwellings it is considered that the adopted policies within the HUDP establish that the principle of residential development is acceptable. In respect of a scheme for two dwellings on a site of this size, there is no planning policy requirement for the provision of affordable housing.
- 6.3 Turning to the detail of the scheme, as the site is within the Conservation Area, special attention should be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area as required by section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990. Policy HBA6 of the HUDP requires development to preserve or enhance the Conservation Area's character and appearance.
- 6.4 The proposed dwellings would be two storey and whilst their proportions would be relatively traditional their external materials would be more modern in appearance. The existing development in the vicinity comprises predominantly single storey dwellings. Those to the immediate east of the site are modest in scale, with larger and slightly more elevated properties to the north and Westholme to the west. It is accepted that the proposed dwellings would differ in appearance and scale to these single storey properties. However due to their orientation in relation to the properties in Scotch Firs and the presence of other two storey development both within the Scotch Firs development and immediately opposite the site, it is not considered that a two storey development would be out of keeping with the mixed residential character of the locality. Furthermore, by virtue of the quality of the design of the dwellings proposed it is considered that due to the prominent position they would occupy, in particular Plot 1, they would contribute positively to the rural street scene. The Conservation Manager supports the proposal in terms of its impact upon the Conservation Area.
- 6.5 The site is within the Wye Valley Area of Outstanding Natural Beauty. Within the context of the site in a developed area and between residential properties it is considered that the erection of two dwellings would not adversely affect the natural beauty and scenic quality of the landscape. The Conservation Manager has no objections in terms of any wider landscape implications. With regards the setting of the settlement it is considered that the site represents an important transition between the open countryside and the more densely developed village. In light of this the siting of the dwellings, set back in the site and retaining mature trees is considered to respect this existing character. A native hedgerow is proposed to be planted to the rear of the improved visibility splay to the south.
- 6.6 Scotch Firs bounds the northern and eastern boundaries of the site. These properties are single storey. Similarly to the application site, levels rise from the south up to the north. Amended plans have been submitted, which have relocated the dwellings further into the site. This has increased the separation distance between plot 1 and 1A, Scotch Firs to 20 metres. The distance between the rear elevation of Plot 2 and numbers 3 and 4 Scotch Firs would be 19.5 metres and 18.5 metres respectively. These distances are taken from rear elevations and not directly facing first floor windows. On the first floor of the rear elevation of the proposed dwellings there would be 6 windows. Of these 4 would serve either an ensuite bathroom or a dressing room, so could be conditioned to be obscurely glazed. On this basis and given the site's context in a main village the separation distances proposed are considered to be acceptable in terms of privacy. Furthermore, due to the distance between the dwellings they would not be unduly overbearing or have an overshadowing affect. This is demonstrated by the submission of a satellite image of the site by the applicant, which clearly

shows that the shadow of the existing trees within the curtilages of numbers 1 and 1A, Scotch Firs at mid afternoon during the summer. By extension of this assessment it is considered that the shadow from the proposed dwellings would be unlikely to fall within the curtilages of the dwellings in Scotch Firs until late afternoon/early evening.

- 6.7 There are no objections to the proposal in highway safety terms. The Traffic Manager has requested improved visibility in a southerly (towards the village) direction. This is achievable through the removal of a section of hedgerow of approximately 5-7 metres. The Conservation Officer has no objection to the removal of this length of hedgerow, as it is not native, provided that a native hedgerow is planted to the rear of the improved visibility splay. In due course this would represent an enhancement to the site and surrounding locality.
- 6.8 The trees adjacent to the access make a significant contribution to the character and appearance of the Conservation Area and the setting of the settlement. The scheme retains the trees and has sought to protect their longevity. The amendments to the scheme, to improve the distance separation between Plot 1 and 1A Scotch Firs have resulted in a corner of the building projecting 2.5 metres into the root protection area of the mature lime tree immediately adjacent to the existing access to the site. This section of building would be single storey only and as such would have limited impacts on the form of the tree. The Conservation Manager has no objection in principle, taking the constraints of the site into account, but advises that an Arboricultural Method Statement is provided. It would be expected that works relating the ground disturbance within the root protection area of the one affected tree would be restricted to hand digging only. The detailed specification for such works would be secured by condition.
- 6.9 A number of objectors have raised concerns regarding the capacity of the existing sewerage system to serve the development. Welsh Water have raised no objections to the proposal, but recommend conditions in respect of the separate drainage from the site of foul and surface water drainage. It should also be noted that the proposal includes recycling grey water systems and porous bound gravel to driveways and parking areas, thus reducing the drainage from the site into the public drainage system compared to older properties.
- 6.10 As the proposal is for residential development the provisions of the Supplementary Planning Document – Planning Obligations are applicable. At present there is a temporary suspension on Section 106 contributions for proposals for developments of five or less dwellings provided that development commences within one year of the grant of permission. The applicants have requested that if planning permission is granted that a one year commencement condition is imposed and as such no financial contributions would be required.

DMS/113213/G

- 6.11 The second application seeks approval for the discharge of an old Section 106 Agreement that was signed in conjunction with the granting of planning permission for the bungalow now known as Westholme (SH920169PO). It is understood that the restriction which prevents the construction of any new dwelling or siting of a permanent residential mobile home was imposed because the previous Local Planning Authority granted permission for the bungalow in open countryside and wanted an additional level of control over the remainder of the site. Since that time, there has been a significant change in planning policy through the adoption of the Herefordshire Unitary Development in March 2007 with the bungalow and its extended curtilage (the application site) now being within the settlement boundary for Fownhope. This means that the “principle” of residential development is accepted with the material planning considerations being considered through the planning application. In this context, the terms of the Section 106 Agreement can no longer reasonably bind the development potential of the site and as such no longer serves a valid planning purpose.

Conclusion

- 6.12 The proposal for the 2 new dwellings is considered to accord with local planning policies in terms of its impact upon the character and appearance of the locality and its relationship to neighbouring properties. Furthermore the associated application for the discharge of the S106 Agreement is supported on the basis that the fundamental shift in policy renders it no longer relevant in planning policy terms.

RECOMMENDATIONS

In respect of DMS/112643/F that planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **C01 Samples of external materials**
4. **F07 Domestic use only of garage**
5. **F17 Obscure glazing to windows**
6. **G11 Landscaping scheme - implementation**
7. **G07 Protection of trees covered by a Tree Preservation Order**
8. **G03 Retention of existing trees/hedgerows**
9. **G12 Hedgerow planting**
10. **H03 Visibility splays**
11. **H09 Driveway gradient**
12. **H13 Access, turning area and parking**
13. **H27 Parking for site operatives**
14. **Foul water and surface water discharges shall be drained separately from the site.**

Reason To protect the integrity of the public sewerage system.

15. **No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the local planning authority.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

16. **Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.**

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

17. K5 Habitat Enhancement Scheme (to include working method statement)

Informative:

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

In respect of DMS/11321/G that the Planning Obligation associated with Application No. SH920169PO be discharged for the following reason:

- 1. The local planning authority consider that the provisions of the Section 106 Agreement dated 5 August 1992 to restrict residential development on land adjacent to Westholme, Fownhope, Herefordshire, reference SH920169PO, is no longer required and does not serve a useful planning purpose.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NOS: DMS/112643/F & DMS/113213/G

SITE ADDRESS : WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN

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