

MEETING:	PLANNING COMMITTEE
DATE:	16 May 2012
TITLE OF REPORT:	N113545/F - PROPOSED CONSTRUCTION OF 4 HOUSES AND GARAGES AT LAND BEHIND 43 DUKE STREET, KINGTON, HEREFORDSHIRE, HR5 3BL For: Mr Morris per Mr Nick La Barre, Easters Court, Leominster, Herefordshire, HR6 0DE
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113545&NoSearch=True

Date Received: 19 December 2011 Ward: Kington Town Grid Ref: 329804,256729
Expiry Date: 13 February 2012
 Local Members: Councillor TM James

1. Site Description and Proposal

- 1.1 The application relates to a redundant parcel of land located to the rear of The Oxford Arms Public House. The site is rather overgrown, occupies an elevated position and is visually prominent from Duke Street to the south. With the exception of a small storage building that is attached to the eastern boundary wall, the site is devoid of any structures, although it is understood that buildings were once present but have been demolished. Its open character is especially unusual in a town that is characterised by narrow roads and alleys with buildings positioned hard against the road frontage.
- 1.2 The site has strong boundaries to the north and east in the shape of 2 metre high walls constructed in local stone. These are important historical boundaries with Oxford Lane (to the east) and Prospect Lane (to the north). Both lanes are primarily pedestrian routes but also provide access to residential properties.
- 1.3 The site is located within the settlement boundary for Kington and the surrounding area is of a residential character. It also lies within the town's conservation area and a number of listed buildings are positioned along Duke Street including The Oxford Arms.
- 1.4 The site is served by an existing point of access onto Duke Street. This also serves three residential properties.
- 1.5 A mature Beech tree is sited at the south eastern corner of the site on adjoining land beyond the control of the applicant. The tree is the subject of a Tree Preservation Order.
- 1.6 The application is for the erection of four dwellings with associated parking areas, a garage block of three single garages and associated landscaping. The dwellings are arranged as a terrace of three orientated east/west and these are opposed to the west by a single detached dwelling with attached garage and the three bay garage block referred to previously. All are arranged around a central access and turning area, linking with the existing point of access

onto Duke Street to the south. The existing building on the eastern boundary is to be retained as an ancillary store for one of the dwellings.

- 1.7 The dwellings are all two storey and are to be finished with stone walls and slate roofs. The terrace has a broken ridge line and similarly the elevations have been stepped to break their uniformity. The terraced dwellings each have three bedrooms, open plan kitchen/dining areas, utility rooms and conservatories, and have an approximate habitable floor area of 100 square metres. The detached dwelling is larger at approximately 135 square metres and has four bedrooms and an attached garage.
- 1.8 The application is accompanied by a Design and Access Statement and the applicant's agent has indicated that his clients would be willing to accept a one year commencement condition if planning permission is granted. Therefore no Heads of Terms Agreement is included.

2. Policies

2.1 National Planning Policy Framework (NPPF):

The following paragraphs are considered to be of particular relevance to this proposal:

- 14 and 49 - Sustainable Development
- 56 to 58 - Design Issues
- 131 - New Development within Conservation Areas

2.2 Herefordshire Unitary Development Plan:

- S1 - Sustainable Development
- S2 - Development Requirements
- S6 - Transport
- S7 - Natural and Historic Heritage
- DR1 - Design
- DR3 - Movement
- H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
- H13 - Sustainable Residential Design
- H14 - Re-using Previously Developed Land and Buildings
- T8 - Road Hierarchy
- LA5 - Protection of Trees, Woodlands and Hedgerows
- HBA4 - Setting of Listed Buildings
- HBA6 - New Development within Conservation Areas

2.3 Department for Transport - Manual for Streets 2

3. Planning History

- 3.1 DMN/112376/F - Construction of four detached dwellings. Withdrawn.
- 3.2 NW2007/1280/F - Proposed vehicular access off Oxford Lane.

Refused 19 June 2007 for the following reason:

The proposed new access would have a damaging visual impact on the appearance of the conservation area and by encouraging the use of Oxford Lane by vehicles would harm its character as a quiet and safe historic pedestrian route in the conservation area. As such the

proposal fails to preserve the character and appearance of the conservation area and is contrary to Policies S7 and HBA6 of the Unitary Development Plan (2007) and guidance contained within PPG15 – Planning and the Historic Environment.

- 3.3 NW2002/2728/F and 2729/L - Access to Oxford Arms car park for private use.

Refused 6 January 2003 for the following reason:

It is considered that the proposed access would compromise highway safety due to the juxtaposition with the adjacent junction. As such the proposal is considered to be contrary to Policies A1 and A70 of the Leominster District Local Plan (Herefordshire).

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water: No objections subject to the imposition of conditions relating to the separate treatment of foul and surface water.

Internal Council Advice

- 4.2 Transportation Manager: Comments that traffic speeds along Duke Street are low because of the width of the carriageway, the existence of similar accesses in the immediate locality and the consequent perception that drivers have of hazards. Accordingly the proposal is considered to be acceptable subject to the imposition of a condition to ensure that areas for parking and access are properly laid out. In consideration of the application the Transportation Manager has had sight of and commented on comments raised by the town council in respect of highway safety matters.
- 4.3 Conservation Manager (Historic Buildings): The site forms a substantial open area at the rear of the Oxford Arms and adjacent houses. I have no objection in principle to development provided that it respects the grain of the medieval burgage plots and the scale and building traditions of the old buildings in the historic core.
- 4.4 These traditionally scaled and detailed buildings dressed in stone and slate and with appropriate joinery will preserve and enhance the appearance of the conservation area and consequently no objections are raised subject to the imposition of conditions relating to the submission of materials, joinery, landscaping and to require the repair of boundary walls.
- 4.5 Conservation Manager (Archaeology): No objection subject to the imposition of a condition to secure the implementation of a scheme for site investigation before development commences.
- 4.6 Public Rights of Way Officer: No objection.

5. Representations

- 5.1 Kington Town Council: Objects to the application on the following grounds:

1. Restricted access

We consider the access to be completely unacceptable for the development proposed.

As indicated on the site plan there is only one access to the site. This access, for both pedestrians and vehicles, is a mere 3.5m wide, thus allowing the passage of only one vehicle at a time and with no space for any marked pedestrian surface. It is at least 1m narrower than Oxford lane on the eastern border of the site.

It will therefore be a serious hazard for pedestrians including young children living in any of the new houses. At present, adjacent to the access, there are 3 dwellings, marked as 43, 46A and 44 on the plan. The inhabitants of those properties are entitled to use this access route. The proposed development provides space for 8 cars, making a minimum of 11 vehicles that would use this access on a daily basis. Visitors and/or additional car owners, delivery vehicles etc will increase the number of vehicles being driven in and out of the driveway.

There is, at present, no splay at the entry to the access, nor is one depicted on the plan. It opens directly onto the pavement on the north side of Duke Street. Drivers exiting from the access onto Duke Street cannot see traffic approaching from their right hand side from The High Street until they move onto the pavement or beyond.

Duke Street is very narrow, affording barely sufficient room for two vehicles to pass each other. There are frequent instances where one vehicle needs to mount a pavement to avoid a collision.

Duke Street carries a considerable amount of traffic in both directions, running directly from the High Street into Victoria Road and meeting the A44 at Sunset roundabout. It is a bus route, and a route to Love Lane that leads to the livestock market.

At present the speed limit is 30mph and there are no additional traffic calming devices.

Duke Street is also a busy pedestrian and cycle route into the town. It is a well-walked route by people of all ages who live on the eastern side of the town, including those from Hatton Gardens on the eastern side of the A44. Children going to and from the two schools, parents with pushchairs and toddlers, elderly people with shopping trolleys, others with mobility scooters are some of the most vulnerable in difficult traffic conditions.

The pavement on the south side of Duke Street is extremely narrow, so the majority of people use the northern side pavement, the one across which all vehicles going to and from the proposed development will need to be driven.

Given the extreme narrowness of both the proposed access, and of Duke Street itself, drivers exiting from the site and wishing to turn right will almost certainly have difficulty turning across the line of traffic; likewise drivers approaching from the east and wishing to turn onto the site will need to cross the line of traffic. Right hand turns are statistically proven hazards.

The access is very close to the T-junction where Duke Street meets the High Street. Because of the narrowness of both these streets there are frequent logjams, especially when large vehicles find difficulty negotiating the corner. A development producing 8 or more additional cars exiting near the junction will cause big problems for all road and pavement users.

We consider the proposed access to be unacceptably hazardous for residents of the development and all other users of Duke Street. We consider the proposal is directly contrary to T8 of the UDP, which states "Development proposals that require access to the road network should have regard to the need to maximise road safety"

2. Number of houses

We consider that the number of houses for this particular site is too high. We accept that the measured density is within the guideline for a town centre development but we consider that the nature of this particular site cannot sustain four houses. We consider that the intentions of H13 in the UDP have not been carried into the proposed development.

The house plan for Unit 3 shows a very meagre amount of space for a family house.

The third bedrooms in Units 2, 3 and 4 are so small that a bed could only be placed in one position and there will be little space for other furniture such as a cupboard and desk.

We consider the provision of conservatories on Units 2, 3 and 4 to be unsatisfactory; larger rooms would be better use of the space and provide more substantial buildings with more robust durability.

We consider that these houses are not suitable for families to live and grow in.

Four houses of the type proposed will generate at least 8-12 vehicles using a wholly unsuitable driveway given its location. The level of air pollution from that number of vehicles regularly used in a relatively small area will be deleterious to the residents of the development and to their neighbours.

There is no provision on the application for lighting on the access route.

3. Sustainable design

The plan drawings are lacking in details, such as ceiling heights, use of roof space etc.

From the information provided there appears to be no attempt to design high standard houses with low or nil carbon footprints.

The amount of hard landscaping in addition to the buildings themselves will result in the destruction of potential green space and its natural ability to absorb rain water; rather there will be run-off of water from the hard surfaces.

We consider that H13, Sustainable Residential Design of the UDP has been ignored.

In particular,

- (3) the environment will not be safe or secure for all members of the community
- (4) the design for traffic movement will be hazardous for, residents, pedestrians, cyclists and other transport.
- (5) there is no indication about the energy efficiency, conservation of energy
- (6) no provision is made for recycling
- (7) there is no provision made for conservation of water, or sustainable energy.

4. Collection of household waste.

No indication is given of where Household waste/recycling containers etc will be placed. If they are to be at the entry to the access driveway they will block the route.

5. Accuracy of the proposed site plan

We believe that the line of the boundary wall on the south side of the site has been incorrectly drawn, and should be to the south of the large copper beech tree. There is the remnant of an old railing on the south side of the trunk of the large beech tree that matches that of a railing along other parts of the wall indicating that the line of the wall should be somewhat further south than on the plan.

6. The copper beech tree

As a significant tree in the conservation area of the town it must be preserved.

At present it appears to be healthy with new growth sprouting round the bottom of the trunk.

If any development is allowed on this site root damage to the tree must be avoided. Beech trees are relatively shallow rooted so special precautions against damage are needed.

We are concerned that heavy machinery under and near the canopy of the tree could result in damage. Because of their shallow roots beech trees are vulnerable to reductions in supply of natural water. The proposed development as a whole will reduce the water availability on the site. Any interruption of water- flows to the tree during construction or later will endanger its survival. The site plan proposes that an area of ground near the tree is raised which will inevitably affect the flow of water to the tree.

We consider that the proposal does not provide adequate safeguards for the beech tree.

7. Boundary Wall along Oxford Lane.

The wall is one of Kington's set of stone built Burgage Walls, inherited from the medieval town. All the Burgage Walls are of notable historic interest. Herefordshire Council's archaeologists and others have described the walls as unique. Kington people value them as important features of the townscape, and a special element in the local heritage. The applicant has failed to maintain this wall properly over several years. While being responsible for it he allowed it to collapse some years ago and despite repeated instruction from the Herefordshire Council's Enforcement Officer it has not been fully restored.

We are concerned that there is no statement in the application documents about how construction traffic, equipment and materials would be brought onto the site, the applicant might believe that he could breach the Oxford Lane Wall. We would consider this to be unacceptable.

If any breach is allowed, the following conditions should be applied:

- (i) all stone removed should be stored and reused in rebuilding the wall
- (ii) rebuilding should be to a standard specified
- (iii) the wall to be restored to the specified standard before any of the site is occupied.

8. Construction Traffic

The application is inadequate and incomplete; no information is provided about construction traffic. We consider that the proposed driveway to the site is inadequate for construction traffic and equipment. In particular the dwelling, No 44, will be very vulnerable to possible damage from both impacts and also vibrations. We understand that the main sewage pipe is close to the surface under this driveway.

Conclusion

Kington Town Council objects strongly to the application for the reasons stated.

We believe that the designs of the dwellings and the access to the site do not comply with the requirements of the UDP.

5.2 Three letters of objection have been received from the following:

- Esther Rolls, 9 Duke Street, Kington
- J M C Deacon, Bell Cottage, Church Road, Kington (owner of 46D Duke Street)
- Mr & Mrs Yardley, Mitre House, 4 Duke Street, Kington

In summary the points raised are:

- Concerns over highway safety, particularly due to the narrowness of Duke Street and the lack of visibility at the point of access.
- Heavy construction traffic may cause damage to the old drainage system serving existing properties.
- The proposal appears to represent over-development
- The development is not sympathetic to the surrounding area.
- If the land is to be developed it would be more appropriate for a small development suitable for retirees.

5.3 One letter of support has also been received from J M Morris, 43 Duke Street, Kington who considers that the site needs to be developed in order to improve the appearance of the area.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

6.1 The site lies within the established residential area of Kington and therefore the basic premise of infill development is accepted, subject to other material planning considerations. In this particular case, the key issue amongst a small number of local residents and the Town Council alike is highway safety and the suitability of the access to accommodate the traffic movements associated with four dwellings. Other matters that are considered to be of importance in the determination of this application include those of design, density, impact upon the Conservation Area and the setting of listed buildings in the locality, and the potential impact of the scheme on the Beech tree. Each of these matters will be considered in turn.

Highway Safety

6.2 It is accepted that the existing access to the site does not meet the standards set out in the Council's Highway Design Guide in respect of visibility, particularly in a westerly direction where 44 Duke Street is positioned immediately adjacent. Duke Street and the pavement are both very narrow, and it is the case that vehicles passing along the road slow to pass one another. This is very much the character of the whole of Kington and is a consequence of its historical development. It also means that there is no opportunity to improve the existing access.

6.3 The Transportation Manager has highlighted the approach advocated towards highway matters in Manual for Streets. It acknowledges that streets not only facilitate the movement of vehicles and pedestrians, but also create a sense of place. It suggests that, in the past, importance has almost exclusively been given to vehicular movement. However, it now advocates that 'place' and 'movement' should be considered in combination, with their relative importance depending upon the street's function within the wider highway network,

6.4 In this case Duke Street is used predominantly by local traffic to either gain access to residential properties, or to the town centre. Due to the narrowness of the road, the relatively close proximity of the access to the Duke Street/High Street/Bridge Street junction and the fact that the road is used by local people who are familiar with the road conditions, traffic speeds tend to be low and thus the risk of accidents is reduced. It is on this basis that the Transportation Manager considers the proposal to be acceptable in terms of highway safety.

- 6.5 It should be noted that other options have been considered in the past to gain access to the site and that two applications with different approaches have both been refused. The applications both proposed the creation of an access off Oxford Lane but both were refused for reasons described above. The use of Oxford Lane remains an unacceptable solution to officers as this would cause the stone wall that delineates the historic layout of the town into burgage plots to be breached. It would also result in a greater conflict between motorised vehicles and pedestrians and therefore it is not considered to be an appropriate solution as far as the redevelopment of the land for residential purposes is concerned.
- 6.6 It is your officer's opinion that there is no reasonable alternative way of gaining access to the site. A development of four dwellings as shown will not result in an unacceptable intensification in use of traffic movements onto Duke Street, and due to the specific road conditions in the locality and the resultant low traffic speeds, an access that does not meet the standards of the Council's Highway Design Guide is considered to be acceptable in this instance. It is therefore concluded that the proposal is acceptable in terms of highway safety and accords with Policies S6 and DR3 of the Herefordshire Unitary Development Plan.

Design

- 6.7 The design and layout of the proposal has been amended since the first, and subsequently withdrawn, application in order that it should better reflect the character and appearance of its immediate environs. The buildings are organised in a linear fashion that reflects the pattern of development in the immediate locality, with examples immediately apparent to the south-east and south-west where development fronts onto Duke Street and then has some depth behind.
- 6.8 The plans indicate that the dwellings will be faced in stone with slate roofs, and that their associated outbuildings will be weatherboarded to give them a secondary and subservient appearance. The front elevation of the main block is not uniform. Its ridge height is broken on two occasions, eaves heights similarly differ and the elevation is staggered to give some relief. This arrangement and detailing is characteristic of the town and is considered to be appropriate in this case. The proposal therefore accords with Policy DR1 of the Unitary Development Plan.
- 6.9 The Town Council contend that the proposal is not sustainable and refer specifically to a lack of detail about ceiling heights, use of roof spaces, excessive amounts of hard surfacing, lack of provision for recycling, conservation of water or sustainable energy.
- 6.10 Some of these are not matters to be considered through the planning process but would be dealt with through an application for Building Regulations should planning permission be granted. The site is one that has been previously developed and occupies a location that is immediately accessible to the town centre. This is compliant with sustainable objectives outlined by Policies S1 and H14 of the Herefordshire Unitary Development Plan. Further details of bin storage and measures to incorporate waste recycling could be required by condition. The plans show surfaced areas for access and parking that accord with highway design guide specifications. They are not considered to be excessive and the precise details of each of the surfaces could be provided by condition. Concerns that might arise about surface water run-off are addressed by conditions recommended by Welsh Water.
- 6.11 In conclusion, it is considered that the scheme is of an appropriate design and layout. It reflects the pattern of development in the locality and secures the re-use of land that has been previously developed, in accordance with Policies S1, DR1 and H14 of the Unitary Development Plan.

Density

- 6.12 Objections have been raised to the development on the grounds that it is considered to be of too high a density. The site measures approximately 0.17 hectares and the density of the proposed development would equate to 23.5 dwellings per hectare. This is considered to be low density. The plans demonstrate the provision of appropriate levels of parking provision and each dwelling has a good sized garden and, as referred to in the paragraphs above, the development is considered to be reflective of the general character and appearance of the locality.

Impact Upon the Setting of the Conservation Area

- 6.13 The comments made in the previous paragraphs about design, layout and density are all relevant to the impact of the proposed development. It has been demonstrated that the proposal has had due regard to the character of the area in all these respects. Furthermore, the current condition of the site and its visual prominence combine to negatively affect the appearance of the conservation area. Its redevelopment as proposed will ensure the long term preservation and enhancement of the conservation area in accordance with Policy HBA6 of the Unitary Development Plan and will also serve to protect and enhance the setting of nearby listed buildings in accordance with Policy HBA4. This is also reflected in the NPPF which advises that development should make a positive contribution to local character and distinctiveness.

Other Matters

- 6.14 The accuracy of the site location plan has been questioned, particularly with regard to the Copper Beech tree located at the south eastern corner of the site. The site has been visited by the case officer to consider this point and the applicant's agent has also confirmed that the tree lies outside of the application site and is not on his client's land. There is no evidence to question the validity of this statement.
- 6.15 The impact of the proposed development upon the tree has also been considered. Ground levels will be raised within 10% of the tree's root protection area and will not be built upon but will form part of the garden to Plot 4. The tree will not be adversely affected by this proposal and, subject to a condition to ensure its protection during the course of the development, the proposal accords with Policy LA5 and is considered to be acceptable.
- 6.16 The stone wall that surrounds the application site, and that forms the historic boundary of the burgage plots that would have originally been associated with properties on Duke Street, is to be retained. A condition to require its repair in a manner to be agreed with the local planning authority is considered to be both necessary and reasonable.
- 6.17 Matters relating to the archaeological significance of the site and the movement of construction traffic have also been assessed and do not lead to a conclusion that the proposal is fundamentally unacceptable.

Conclusion

- 6.18 The Herefordshire Unitary Development Plan remains as the primary document against which planning applications should be determined. It is clear that development should be sustainable, should preserve and enhance the conservation area and should ensure that highway safety is maintained. These are the key matters for consideration in this case and it has been demonstrated that the proposal accords with all of those policies that are relevant.
- 6.19 Sustainability is also the key theme that runs throughout the NPPF and Local Planning Authorities are asked to presume in favour of development that is sustainable. The re-use of previously developed land, the enhancement of the conservation area and the close proximity of the site to local services are all matters that weigh heavily in favour of this proposal with

respect to its sustainability credentials and as such the proposal is also considered to fully accord with the Government's most up to date policy.

6.20 The application is therefore recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

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

Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4th March 2009 to suspend (effective from 1st April 2009) the requirements of the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to residential developments of five dwellings or less.

- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. C06 Stonework laid on natural bed**
- 5. E01 Site investigation - archaeology**
- 6. G04 Protection of trees/hedgerows that are to be retained**
- 7. G10 Landscaping scheme**
- 8. G11 Landscaping scheme - implementation**
- 9. Details of works required for the repair of the stone wall along the northern and eastern boundaries of the site shall be submitted to and approved in writing by the local planning authority. The details shall include a precise identification of those areas to be repaired, the methods to be employed and detail of the mortar mix. A sample of any new stone required as a result of these repairs shall be submitted to and approved in writing by the local planning authority prior to any repair work commencing. The repairs shall be completed in accordance with the approved details prior to the first occupation of any of the dwellings.**

Reason: In order to preserve and enhance the character and appearance of the Conservation Area and to comply with Policy HBA6 of the Herefordshire Unitary Development Plan.

- 10. H13 Access, turning area and parking**
- 11. I16 Restriction of hours during construction**
- 12. L01 Foul/surface water drainage**
- 13. L02 No surface water to connect to public system**
- 14. L03 No drainage run-off to public system**

INFORMATIVES:

1. Reason to Grant Planning Permission

The objections received from the town council and local residents have all been considered in detail. It is acknowledged that the proposed access to the site does not meet the standards set out in the Council’s Highway Design Guide in respect of visibility, particularly in a westerly direction where 44 Duke Street is positioned immediately adjacent. Advice contained within Manual for Streets 2 offers greater flexibility and the development of four dwellings will not result in an unacceptable intensification in use of traffic movements onto Duke Street, particularly when considered with the specific road conditions in the locality and the resultant low traffic speeds.

The design, layout and density of the proposal are all considered to reflect the local area and the re-use of the site in an appropriate manner will both preserve and enhance the character and appearance of the conservation area and the setting of nearby listed buildings, particularly as the scheme will retain and bring about the repair of the stone walls that bound the site to the north and east.

The site is sustainably located in close proximity to Kington town centre with good access to local services. The land has been previously developed and its re-use also meets sustainability objectives.

The Copper Beech tree at the south eastern corner of the site will not be impacted by this proposal. The closest development to it falls beyond its Root Protection Area and its continued vitality can be secured by the imposition of a condition to protect it during construction.

The proposal fully accords with Policies S1, S2, S6, S7, DR1, DR3, H1, H13, H14, T8, LA5, HBA4 and HBA6 of the Herefordshire Unitary Development Plan, as well as the National Planning Policy Framework and Manual for Streets 2.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

