

**27 DCNW2004/3725/F - CHANGE OF USE FROM  
PADDOCK TO RESIDENTIAL GARDEN AND  
RETENTION OF PART OF DECKING AT THE BOTHY,  
LOWER HERGEST, KINGTON, HEREFORDSHIRE****For: Mr D Broadley at above address.****Date Received:**  
**26th October 2004****Ward:**  
**Kington Town****Grid Ref:**  
**27536, 55436****Expiry Date:**  
**21st December 2004**

Local Member: Councillor Terry James

**1. Site Description and Proposal**

- 1.1 The application site lies to the rear of the detached rural dwelling known as the Bothy. The piece of land that is the subject of this application sits to the rear (northwest) of the dwelling (at a higher level than the associated dwelling) and is accessed via steps. The site has been used formally as garden area for a number of years and is currently grass lawn. This area drops away steeply at the southern end towards a post / wire fence that forms the boundary with the neighbouring agricultural grazing land. A level 'decking' area has been constructed to the South of the application site over this area. Building materials and waste have been deposited in this area, and it is evident that this has been there for some time. The decking spans the entire width of the site at about a height difference of 1m from ground level, at the Southern boundary of the site and a further 1m high balustrade surrounding.
- 1.2 Rose Cottage, A detached cottage, lies immediately to the south east of the Decking Area and to the south west of The Bothy. The application site is some 2m in height above the ground level of the properties.
- 1.3 The proposal forms two parts, both retrospective. The first is the change of use of this piece of land, that was formally agricultural, to be included within the residential curtilage of the dwelling. The second is the partial retention of the decking that has been installed to the southern part of the site. This currently measures 6.8m and would be reduced to a width of 4.3m. An area of planting between the decking and boundary with Rose Cottage is proposed in place of the existing decking.

**2. Policies****2.1 Planning Policy Guidance**

PPG1 –

**2.2 Hereford and Worcester County Structure Plan**

CTC2 – Development in Area of Great Landscape Value

### 2.3 Leominster District Local Plan

- A41 – Protection of Agricultural Land
- A53 – Protection from Encroachment into the Countryside
- A54 – Design and Layout of Housing Development

### 2.4 Herefordshire Unitary Development Plan – Deposit Draft

- DR2 – Land Use and Activity
- LA2 – Landscape Character and Areas Least Resilient to Change
- LA6 – Landscaping Schemes

## 3. **Planning History**

- 3.1 None relevant to this application.

## 4. **Consultation Summary**

### Statutory Consultations

- 4.1 No statutory consultees.

### Internal Council Advice

- 4.4 Head of Highways and Transportation has no objection.

## 5. **Representations**

- 5.1 The Parish Council comment: Initially the members of the Council had no objections to this change of use from paddock to residential garden. The Council would like to point out that this proposal is set in a rural position and not an urban one and that the land in question is on a high elevation. Following a site inspection of the land it is obvious that this is a retrospective application and that the works have already been completed. The members would point out to the Planning Department that an ancient hedge has been removed to install decking, with a post line (part of decking) completely on the former hedge line, in effect forming a boundary fence; the decking starts off at ground level and raises to at least 4' off the ground of the site. However, no consideration has been given to the adjoining property owners, when the decking was put in place. The members of the Council believe that this decking should be removed and moved to a more appropriate space behind The bothy and away from its current position behind Rose Cottage. Kington Rural and Lower Hampton Parish Council would also wish to see the hedge and all trees reinstated. From observation it is obvious that this work has been done to gain a view. It is felt by members of the Council that stringent conditions should be placed upon any approval given, ensuring that firstly the hedge and trees are replaced, restrictions made to prevent development of any kind behind Rose Cottage, to include decking, sheds, summer houses, greenhouses, conservatories etc.

5.2 Two letters of objection have been received. The first from Tina and Gordon Davison of Rose Cottage and is attached as an appendix.

5.3 The second letter from Kate and Andrew Garman and is attached as an appendix.

## **6. Officers Appraisal**

6.1 The main issues in the consideration of this application are the principles and acceptability of the change of use and decking on the landscape quality of the area and of on the amenities and living conditions currently enjoyed by the residents of the adjoining properties.

6.2 The change of use of use of the land from agricultural to garden was undertaken a number of years ago. In principle the encroachment of residential use into agricultural land is contrary to the policies that set out to protect the countryside. However, consideration has been given to the minimal nature of the intrusion and to the relationship with the dwelling and surroundings. As such it is considered that the proposed change of use in itself is acceptable.

6.3 The more problematic element of this application is the area of decking that has been erected to the South of this piece of land. The decking, in its current form, being laid at a higher level than the existing ground level, has the effect of directly overlooking the path and private space that runs to the rear of Rose Cottage, directly impeding on the privacy currently enjoyed by its occupiers. However, the application that has been submitted addresses this issue by removing a section of the decking, setting it back from this shared boundary by 2.5m. Whilst this set back itself will address much of the direct overlooking implications due to the difference in levels, a section of landscaping in this area is also proposed. Although details of the landscaping have not been submitted, a condition is proposed to ensure that the landscaping proposed serves the purpose of providing a screen between the decking and the neighbouring property. It is therefore considered that the overlooking and privacy issues can be overcome and therefore comply with the local plan policies that seek to protect residential amenity.

6.4 The decking area is clearly visible from the adjoining field and from some of the properties in the locality. The decking in its current form is quite visually intrusive from this view point. However, this application has made a significant reduction in the width of the decking therefore reducing the scale of the structure and overall impact. The landscaping condition as above will also soften the impact. Both the parish Council and neighbours make reference to removal of a hedgerow on the site. Whilst there appears to be evidence of the removal of a tree from within the site, it is uncertain as to whether the hedge was removed as part of this development. In its proposed form and with the appropriate landscaping it is considered that the proposed decking would not be so intrusive on the landscape that it would constitute a reason to refuse this application.

6.5 If permission is granted to continue the use of the land as part of the residential curtilage, then the site would benefit from permitted development rights, under which further structures could be erected. A condition removing the rights to erect any further structures on the application site is therefore recommended.

- 6.6 As this application is retrospective and is already having an impact on the neighbouring property, a condition recommending that the works to the decking are completed and landscaping scheme submitted within 2 months is recommended. A further condition ensuring that the landscaping is completed within the first planting season and retained for the life of the development.
- 6.7 To summarise, the use of the land as an extension of the residential garden is considered to be acceptable. The decking, in its revised form, and with control over the proposed landscaping through the use of conditions, is also considered to overcome the concerns relating to amenity, privacy and visual impact. As such this proposal is in accordance with the policies of the local plan and a conditional permission is recommended.

**RECOMMENDATION**

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

- 1 - **Within 2 months of the date of this permission the unauthorised decking shall be removed and revised decking completed in accordance with the submitted plans.**

**Reason: The local planning authority is not prepared to permit the retention of the entire structure and requires its removal in the interests of the amenities of the neighbouring property and surrounding landscape.**

- 2 - **Within 2 months of the date of this permission a scheme of landscaping, which shall include all proposed planting, clearly described with species, sizes and planting numbers, shall be submitted to and approved in writing by the Local Planning Authority.**

**In order to ensure to protect the visual amenities of the area and amenities of the neighbouring properties.**

- 3 - **G05 (Implementation of landscaping scheme (general) )**

**Reason: In order to protect the visual amenities of the area and in order to ensure that the planting is completed and retained to protect the amenities of the neighbouring properties.**

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

**Reason: In order to protect the landscape character of the area.**

**Informatives:**

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

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.