

**7 DCNE2005/2041/F - ERECTION OF A HOUSE WITHIN  
WALLED GARDEN - AMENDMENT TO PLANNING  
PERMISSION MH97/1452 AT THE KITCHEN GARDEN,  
HOPE END, LEDBURY, HEREFORD, HR8 1JQ**

**For: Hon J Donovan per ALP Architects, 15 Gosditch  
Street, Cirencester, Glos, GL7 2AG**

**Date Received:**

**21st June 2005**

**Expiry Date:**

**16th August 2005**

Local Member: Councillor R Stockton & Councillor R Mills

**Ward:**

**Hope End**

**Grid Ref:**

**72085, 41233**

## **INTRODUCTION**

Members will recall that this item was originally presented to Committee on 5<sup>th</sup> October 2005 at which Committee resolved to defer the application for further discussion between Local Members and Senior Officers regarding the implementation of the original permission.

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

- 1.1 The application seeks planning permission for the erection of a dwelling within the walled garden at Hope End, Ledbury. The scheme presents an alternative to an application approved in 1998 (MH97/1452), which involved a large two-storey extension to the existing single-storey gardener's cottage situated outside the garden, a short distance from the northeast corner.
- 1.2 The walled garden itself forms an integral part of the Hope End estate and parkland, which lies 4km to the north of Ledbury in the lee of the Malvern Hills 3km to the east. The importance of the parks and gardens is recognised through its inclusion upon the English Heritage Register of Parks and Gardens of special historic interest in England. The wider landscape also falls within The Malvern Hills Area of Outstanding Natural Beauty.
- 1.3 The parkland is defined to the west and north by topographical constraints, with the ground falling away steeply into Raycombe and Berrington woods. The northern limit of the park is Oyster Hill, from which distant views north and west are obtained as well as views back towards the south over the park itself.
- 1.4 The principal building on the estate historically was the former childhood home of Elizabeth Barrett-Browning, located 150m to the southeast of the Walled Garden. Today only remnants remain, the original having been largely demolished in the 19th Century. The existing Hope End, restored in the 1970's and run until recently as a hotel, is understood to have been the outbuildings and stabling to the principal house.
- 1.5 Hope End House, built in the latter part of the 19th Century occupies a position on higher ground to the North.

### The Proposal

- 1.6 The proposal centres upon the walled garden, thought to date from the mid-18th Century. It measures 80m east/west and 50m north/south and slopes slightly towards the south. Stone-capped brick walls surround the garden, with doors in the east, west and south walls. The north wall was once heated and a range of sheds survive behind. The only glasshouses currently located within the garden are along the north wall and date from circa 1990. Public Footpath CW55 runs parallel to the west wall of the garden at a distance of approximately 30m.
- 1.7 The development proposed seeks permission for the erection of a dwelling within the walled garden as an alternative to the existing permission to extend the gardener's cottage. The development proposed is, at face value, contrary to policy in that it proposes new residential development in open countryside.
- 1.8 Further, Members will be aware that S.54 (a) of The Town and Country Planning Act 1990 requires that any determination made under the planning Acts shall be made in accordance with the development plan unless material considerations indicate otherwise.
- 1.9 In this case, however, the existing consent for the extension to the gardener's cottage represents is a material consideration that Members may consider to warrant a departure from adopted policy.
- 1.10 The existing permission relates to an extension of the gardener's cottage located outside the walled garden a short distance from the northeast corner. This single-storey brick building was enlarged in the 19th Century from a store into a gardener's cottage. Application MH97/1452, referred to in the description of development, allowed a considerable two-storey addition to this building, extending into the walled garden breaching both the eastern and northern walls.
- 1.11 The effect is to permit the creation of a substantial two-storey dwelling with a single-storey element to the west and the remnants of the gardener's cottage visible to the east. This extension has not been started, although correspondence on file indicates that the permission has been safeguarded and could therefore be implemented at a future date.
- 1.12 The dwelling proposed is an alternative to this extension. The dwelling would be positioned midway along the northern wall. In this position it would be necessary to remove approximately 10m of the original wall to allow circulation internally. The dwelling is orientated to face into the garden and is architecturally of the Georgian style, with a symmetrical southern elevation. The building would abut and be linked internally to the existing modern glasshouses.
- 1.13 The dwelling would have a ground floor area of 200 square metres, and overall height of 7.7metres. This compares to a ground floor area of 208 square metres for the existing permission, which incorporates the gardener's bungalow and has an overall height of 7.1metres. The relative mass of the two buildings is thus comparable. It should be noted that the current proposal allows the gardener's cottage to be read as a separate entity. Its presence has not therefore been taken into account in the calculation of floor area for the current proposal.
- 1.14 Vehicular access to the proposed dwelling is proposed via a spur from the driveway to Hope End House, with uncovered parking provision to the rear of the proposed

dwelling. This contrasts with the existing permission MH97/1452 which involved the construction of a three bay open-fronted garage building set between shrubs to the east of the walled garden, utilising the existing approach to the gardener's cottage running parallel to the east wall. Under the current proposal this garage building would not be constructed.

- 1.15 The justification for the current proposal is the existence of the permitted scheme to extend the gardener's cottage in a manner that would create a dwelling of comparable size and scale. A determination is therefore required as to whether the existing permission to extend the gardener's cottage or the dwelling currently proposed is the more appropriate given the historic, architectural and landscape context. If the current proposal is permitted the previously approved scheme would not be implemented.

## **2. Policies**

### **2.1 Malvern Hills District Local Plan**

H4 – Development in the Countryside  
REC4 – Public Rights of Way  
LAN2 – Areas of Outstanding Natural Beauty  
LAN3 – Development in Areas of Great Landscape Value

### **2.2 Herefordshire Unitary Development Plan**

S1 – Sustainable Development  
S2 – Development Requirements  
S3 – Housing  
DR1 – Design  
H7 – Housing in the Countryside Outside Settlements  
LA1 – Areas of Outstanding Natural Beauty  
LA2 – Landscape Character and Areas Least Resilient to Change  
LA4 – Protection of Historic Parks and Gardens  
LA5 – Protection of trees, Woodlands and Hedgerows  
LA6 – Landscaping Schemes

## **3. Planning History**

MH97/1452 - Extension and alterations to existing dwelling and proposed new detached garage, The Walled Garden, Hope End, Ledbury: Approved under delegated powers 24th June 1998.

## **4. Consultation Summary**

### Statutory Consultations

- 4.1 Environment Agency: No objection subject to the imposition of a standard foul drainage condition.

### Internal Council Advice

- 4.2 Conservation Manager (Landscapes): The comments are summarised as follows:

Hope End is a picturesque landscape designed by J C Loudon to complement the original house that he also designed and which has since been largely demolished. It

is registered by English Heritage as a Grade II landscape in their national register of parks and gardens of special historic interest. The walled kitchen garden is a central feature of the registered landscape, dating from around 1750. It is in exceptionally good repair and one of the finest examples of walled gardens in the County.

I am aware that there is an existing permission for an extension to the adjacent gardener's cottage into the kitchen garden at Hope End and I therefore do not object to this development in principle. The design of the house submitted in this application is far more in keeping with the character of the site and the quality of the estate buildings than the previous proposal and I therefore support the concept of the overall built design in place of the scheme already given permission.

The following concerns have, however, been expressed:

1. A preference that the proposed house be brought forward slightly so that it sits entirely within the garden wall;
2. Reservation about the relationship of the linking block that appears neither quite house nor glasshouse. A more sensitive design could successfully join the two built elements;
3. There is no apparent provision for car parking, which ought to be considered at this stage.

- 4.3 Conservation Manager (Building Conservation Officer): The comments are summarised as follows:

In general the proposed scheme would be a major improvement on the previous scheme as it allows the garden to retain its historic context and maintain a separation between the gardener's cottage and the garden. The proposed site is to the centre and rear of the garden as approached and therefore allows the feeling of the existing walled garden to be retained.

It is recommended that the building be brought forward into the walled garden so that the wall remains unaltered. The link element between the house and glasshouse would also benefit from review.

- 4.4 Transportation Manager: No objection

## 5. Representations

Objections to the proposal are summarised in paragraphs 5.1 - 5.8 below.

- 5.1 Colwall Parish Council: Objects to the development.

The Council believe that the existing permission has lapsed, as there is no indication that the development has been started within the set time-scale. The Council also believes that the development would have a detrimental effect on the heritage of this site. The style of the proposed new house is also objected to and the presence of protected tree specimens to the northern boundary is highlighted. The development would also have a detrimental visual impact from a footpath, which is one of the Malvern Hills Outstanding Natural Beauty discovery walks. The Council also notes the new access through existing parkland and would like to stress that the visual impact would impinge on this environmental and historic landscape. These comments are upheld in the Colwall Village Design Statement paragraphs 3.2, 3.3 and 5.6.

5.2 English Heritage is concerned that so grand a house is alien to the character of a historic walled garden and to its role in the historic park. We would have preferred to see something more modest, and ideally something no higher than the walls.

5.3 The Campaign to Protect Rural England: We can see no justification for building a domestic property on this site, and we would be grateful if the Council could tell us what considerations led to the approval in 1997 of such a building in open countryside within the AONB? We find it difficult to square this decision with the then Council's policies.

5.4 Malvern Hills AONB Planning Group: Objects to the development.

The proposed construction of a new house in this historic parkland in open countryside is considered inappropriate and will mar the natural beauty of the area.

5.5 Hereford and Worcester Gardens Trust: Objects to the development.

The Trust notes the special landscape and historic qualities of the area, particularly the influence of J C Loudon. They conclude that the house is too large and intrusive for the setting, which is especially self-contained and has a unique ambience, derived from its significant history.

5.6 Walled Kitchen Gardens Network: Objects to this development.

The plans to build a large, new house, not in keeping with the overall aesthetic and original purpose of the garden, is unacceptable and would entirely destroy the garden's early 19th century character.

5.7 20 letters of objection have been received. They include representation from the adjoining landowner, the neighbouring parishes and from outside the County. The content is summarised below.

1. The development is contrary to policies restricting residential development in open countryside, which is recognised for its quality as an Area of Outstanding Natural Beauty;
2. The parkland, of which the garden is an integral part, is Grade II listed on the English Heritage register of Parks and Gardens of special historic interest in England and as such should be afforded special protection;
3. The development would create two dwellings on site, where only one exists at present;
4. The proposal is not in keeping with the walled garden;
5. The development will be obtrusive in the landscape and visible from public vantage points;
6. The creation of a new vehicular access would be visually intrusive and necessitate the removal of trees;
7. Concern is expressed as to whether the existing permission for the extension to the cottage has been implemented;
8. The proposal cannot be considered as an amendment to the existing permission, rather new residential development in open countryside;
9. The development would adversely affect the privacy of the adjoining occupants at Hope End House.

5.8 A 35-name petition of objection to the proposal has also been received.

Support for the proposal is summarised in paragraphs 5.9 - 5.10

- 5.9 2 letters of support have received from Mr A Peake, Westhill House, Ledbury and Mr N Daffern, Hope End, Ledbury. These express the view that the current application represents an improvement on the existing planning consent and would give renewed purpose to the walled garden.
- 5.10 The Garden History Society: Express support for the proposal having visited the site and compared the existing consent with the current proposal.

"We note that the permitted scheme, if implemented, would result in three significant adverse impacts on the historic fabric:

1. The single-storey cottage would be truncated and would lose its aesthetic coherence;
2. The northeast corner of the walled garden would be punctured by the new dwelling;
3. A garage would be erected to the southeast of the cottage and the vehicular access to the new dwelling would extend parallel to the eastern wall of the garden.

The amended scheme, if implemented in place of the consented scheme, would avoid these negative impacts and would, in our opinion, offer some significant advantages:

1. The cottage would be retained intact and with its existing spatial relationship to the walled garden unaltered;
2. The vehicular access to the dwelling would be from the northeast extending parallel to the northern boundary of the site, with the result that vehicular movements would be screened from view by the cottage and the evergreen shrubbery parallel to the eastern wall of the Walled Garden;
3. The permitted garage would not be constructed;
4. The dwelling would be placed parallel to the north wall of the garden and would have a better aesthetic and spatial relationship to the glasshouse and the garden itself.

In summary The Garden History Society does not wish to object to the present amended scheme, which it advises has a less detrimental impact on the historic fabric of the walled garden, its immediate setting and the wider historic designed landscape than the scheme for which consent has already been granted. The Society therefore advises that subject to the unambiguous revocation of the consent for the extension to the single-storey cottage, vehicular access from the southeast and the construction of a garage, which exist under permission MH97/1452, and the framing of conditions for the appropriate repair of the walls enclosing the walled garden, application DCNE05/2041/F should be approved."

- 5.11 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. Officer's Appraisal

- 6.1 Given that the proposal, when considered in isolation is clearly contrary to policy, the material consideration, namely the extant permission, has become the key aspect in the determination of this application.
- 6.2 Members will note the polarisation of views apparent in section 5 of the report and the documented objection to and support for the proposal. A number of the objections relate solely to the erection of the new dwelling and have not commented on the full proposal, namely the non-implementation of the existing extant permission. Consequently they have not expressed a preference between the two.
- 6.3 In the view of both the Council's Landscapes and Building Conservation Officers, the current proposal represents a significant improvement upon the existing consent. This is further reinforced by the comments of The Garden History Society, the body with pre-eminence in the study of garden history and the protection of historic gardens, who observe that the current proposal would avoid the identified significant adverse impacts of the existing consent outlined at paragraph 5.8 of the report and offer some "significant advantages".
- 6.4 Concern has been expressed in a number of the representations on file as to whether the existing consent has, in the absence of any discernible groundwork, lapsed. Correspondence on the historic file indicates that the relevant condition was discharged prior to the expiration of the 5-year period, whilst the site was pegged-out to satisfy the commencement requirement. The Local Planning Authority accepted that this was satisfactory to safeguard the permission, which thus remains extant.
- 6.5 A number of representations express concern at the detachment of the dwelling from the gardener's cottage and consequent creation of two dwellings. It is accepted earlier in the report that this is contrary to adopted Local Plan policy and National Planning Guidance. The applicant has indicated, however, a willingness to accept a condition restricting the separate occupation and resale of the gardener's cottage. The gardener's cottage would remain ancillary to the main dwelling and not become a separate planning unit. It is the opinion of your officer that any forthcoming application to remove such restrictive conditions could be rebutted given the special landscape quality of the site and its surrounds.
- 6.6 The application makes no provision for garaging, parking provision being located to the rear of the dwelling. As such, the garaging approved under MH97/1452 is not to be constructed, which is viewed as a significant advantage. Any forthcoming application for garaging would be considered on its individual merits having regard to development plan policy.
- 6.7 The proposal represents, in your officer's opinion, a more appropriate response to the walled garden than the existing permission for the extension of the gardener's cottage. The application is therefore recommended for approval subject to the conditions set out below.

## 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 - A06 (Development in accordance with approved plans) (dated 21 June 2005)**

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

**3 - A12 (Implementation of one permission only) (MH97/1452 dated 24 June 1998)**

**Reason: To prevent over development of the site.**

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

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

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

**Reason: To safeguard the character and appearance of the site, which is listed on the English Heritage Register of Parks and Gardens of special historic interest in England.**

**6 - E18 (No new windows in specified elevation )**

**Reason: In order to protect the residential amenity of adjacent properties.**

**7 - E29 (Occupation ancillary to existing dwelling only )**

**The existing gardener's cottage shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby approved.**

**Reason: It would be contrary to the policy of the local planning authority to grant planning permission for a separate dwelling in this location.**

**8 - E15 (Restriction on separate sale )**

**The gardener's cottage and the dwelling hereby approved shall not be sold or let separately from each other.**

**Reason: It would be tantamount to the erection of the additional dwelling contrary to the policy of the local planning authority.**

**9 - F18 (Scheme of foul drainage disposal )**

**Reason: In order to ensure that satisfactory drainage arrangements are provided.**

**10 - F48 (Details of slab levels )**

**Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.**



11 - G18 (Protection of trees )

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

12 - G19 (Existing trees which are to be retained )

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

13 - G21 (Excavations beneath tree canopy )

Reason: To prevent the unnecessary damage to or loss of trees.

14 - H13 (Access, turning area and parking) (Details to be submitted shall include cross-sections through the new driveway.

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

15 - Prior to the commencement of development, the applicant shall, in conjunction with the Council's Building Conservation Officer, agree a schedule of works to cover any necessary works of repair to the wall enclosing the walled garden. Works of repair shall be carried out in accordance with the agreed details before the first occupation of the dwelling hereby approved.

Reason: In order to safeguard the character and appearance of the walled garden.

Informatives:

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

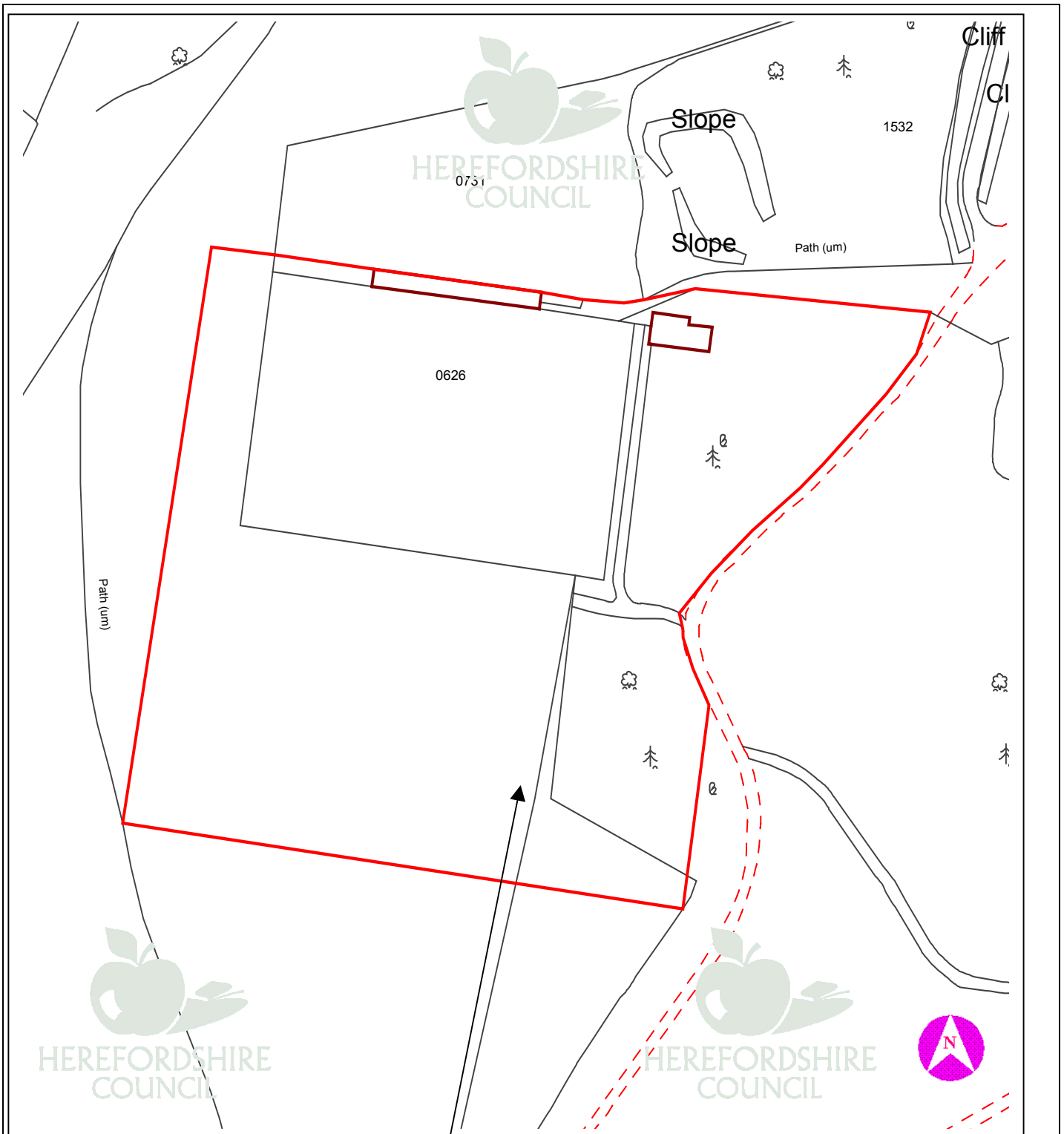
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNE2005/2041/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** The Kitchen Garden, Hope End, Ledbury, Hereford HR8 1JQ

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