

13 DCCW2006/0798/G - DISCHARGE OF A PLANNING OBLIGATION AT THE LAKES, SWAINSHILL, HEREFORD, HR4 7PU**For: T.J. Crump Oakwrights Ltd. per White Young Green, Ropemaker Court, 12 Lower Park Row, Bristol, BS1 5BN****Date Received: 8th March, 2006 Ward: Credenhill Grid Ref: 45992, 41943**
Expiry Date: 3rd May, 2006

Local Member: Councillor R.I. Matthews

1. Site Description and Proposal

- 1.1 This site is located on the northern side of the A438 Hereford to Brecon road at Swainshill and comprises a converted residential dwelling, The Lakes, now used as offices, workshop and extraction plant building together with parking, services and storage yard associated with the manufacturing of timber framing for construction.
- 1.2 Planning permission has recently been granted for the erection of a new workshop building together with the expansion of the service/storage yard (DCCW2005/3733/F) on land to the north of the established site and subject to a restrictive covenant attached to a permission granted in 1998 (SH970687PO). This application relates to the same area of land considered pursuant to the recently approved planning application and is to remove the restrictive covenant (SH970687PO) which effectively prevented the land being developed.
- 1.3 The application is to discharge the Section 106 Planning Obligation has been submitted following the planning permission granted to develop the land.

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

- PPS7 - Sustainable Development in Rural Areas
PPG24 - Planning and Noise

2.2 Hereford and Worcester County Structure Plan:

- Policy E6 - Development in Rural Areas
Policy ECT9 - Development Criteria

2.3 South Herefordshire District Local Plan:

- Policy GD1 - General Development Criteria
Policy ED3 - Employment Proposals
Policy ED5 - Expansion of Existing Businesses
Policy T3 - Highway Safety Requirements
Policy C29 - Setting of Listed Buildings

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft):

Policy S1	-	Sustainable Development
Policy S2	-	Development Requirement
Policy S4	-	Employment
Policy DR2	-	Land Use and Activity
Policy E6	-	Expansion of Existing Businesses
Policy E8	-	Design Standards for Employment Sites
Policy E11	-	Employment in the Smaller Settlements and Open Countryside
Policy T9	-	Road Freight
Policy T11	-	Parking Provision
Policy HBA4	-	Setting of Listed Buildings

3. Planning History

- 3.1 SH970687/PO New steel framed workshop, 3 bay garage, restriction of existing buildings, new entrance to property and site road. Approved 31st March, 1998. Section 106 Agreement not to develop areas of the site.
- 3.2 SC980709/PF Change of use from private house to office. New steel framed workshop and one 3 bay open garage with ancillary works. Approved 21st July, 1999.
- 3.3 CW2000/0056/F Amendment to existing planning permission (SC980709PF) and position of proposed workshop. Approved 4th May, 2000.
- 3.4 CW2001/1528/F Retention of 1) Additional 40 sq.m. yard space added to side of existing yard. 2) 10 steel stacking racks to side of workshop for storage of oak. Undetermined.
- 3.5 CW2002/1228/F Extension of existing workshop - gate posts and gateway brought closer to main road to give clearer access to delivery lorries. Tarmacked parking area. Approved 17th June, 2002.
- 3.6 DCCW2005/3733/F Erection of new workshop building and expansion of service/storage yard. Approved 11th January, 2006.

4. Consultation SummaryStatutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 Traffic Manager: No objection.
- 4.3 Conservation Manager: No conservation implications.

5. Representations

5.1 Stretton Sugwas Parish Council: "Items which Stretton Sugwas Parish Council wish to see included in a new Section 106 Agreement in respect of the site:

1. Operating times. The operation of the premises for which planning permission has been granted should be limited to 7.30 am - 6.00 pm Monday-Friday and 7.30 am - 1.00 pm on Saturdays. No use on Sundays or Bank Holidays due to close proximity of significant numbers of pre established dwellings.
2. The development proposals must be constructed in accordance with the planning permission for which this 106 Agreement has been produced, giving particular reference to the fact that the FFL of both the proposed new workshop and surrounding yard and storage areas shall not exceed the FFL of the existing workshop.
3. The proposed new workshop shall not be operated from commercially, until the following conditions are met:
 - i. The building is built in accordance with the design submitted and subsequent building control approval granted.
 - ii. A noise impact assessment has been executed, the results analysed and subsequently confirmed that the proposed machinery and activity do not constitute a deleterious effect on the acknowledged interests of neighbouring dwellings upon reasonable request from the neighbouring dwellings the local authority shall revisit and check on noise levels and take such enforcement action as may be required to prevent further pollution.
 - iii. All yard areas and roadways shall be fully metalled with concrete on macadam to prevent both noise pollution and dust pollution affecting neighbouring dwellings and bring mud on the carriageway.
 - iv. The completion of the proposed landscaping scheme as set out in the application and that the applicant will use mature tree specimen wherever possible and that on a continuing basis the applicant will maintain the scheme replacing any dead trees with new mature planting.

The applicant will be limited to operating any approved site lighting scheme to the operating hours on the site only. Any scheme must be designed, approved and installed in accordance with the appropriate current standards in order to minimise pollution and disturbance to adjoining ownership.

The planning permission covered by this 106 Agreement shall limit the consent to the use of the site by the applicant and their successors for the operation of a business pursuant to the manufacture and off site construction of oak framed timber buildings and for the avoidance of doubt no other use shall be permitted."

5.2 Three letters of objection have been received from:

Mrs. G. Hume, Stonelea, Stretton Sugwas, Herefordshire, HR4 7PT.
A.E. Marshall, Thrupton, Brecon Road, Swainshill.
Mr. R. Pritchard, The Mill, Kenchester, Hereford.

The main points raised are:-

1. The covenant was imposed for good reason to protect the adjacent listed building.
2. The original approval was against policy and the land has been used in breach for the last three years.
3. Planning Agreements should be adhered to by the owners.
4. The removal of the Section 106 and its subsequent development takes it from being a minor development to a major development by bits and pieces.
5. The applicants are not abiding by conditions attached to their existing permissions.

The full text of these letters can be inspected at Central Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 Members will recall that planning permission was granted earlier this year to enable this company to expand their operations at The Lakes, Swainshill. Members were informed at the time that the land subject of the planning application was covered by a Section 106 Planning Obligation placing a covenant which restricted development. This application seeks the formal discharge of that agreement to reflect the approved expansion of the business operation.
- 6.2 The agreement was placed on the land when planning permission was granted for the change of use of the dwelling to offices together with the erection of the workshop. At that time this land was shown to remain undeveloped. Subsequently, the planning application determined by the Central Area Planning Sub-Committee in January confirmed the acceptability of developing the site subject to appropriate conditions. In determining that application and following a Committee site visit Members fully considered the impact of extending the premises.
- 6.3 The concerns raised by the Parish Council and local residents are acknowledged but in this instance the merits of the development of the site have been fully considered and in particular the conditions requested by the Parish Council in their consultation response largely relate to conditions in place on the recently approved expansion proposals.
- 6.4 In conclusion, the reasons for securing the restrictive covenant have been superseded by the grant of planning permission to develop the "protected" land and it is no longer considered reasonable or necessary that it remains in place.

RECOMMENDATION

That the Section 106 Planning Obligation be discharged.

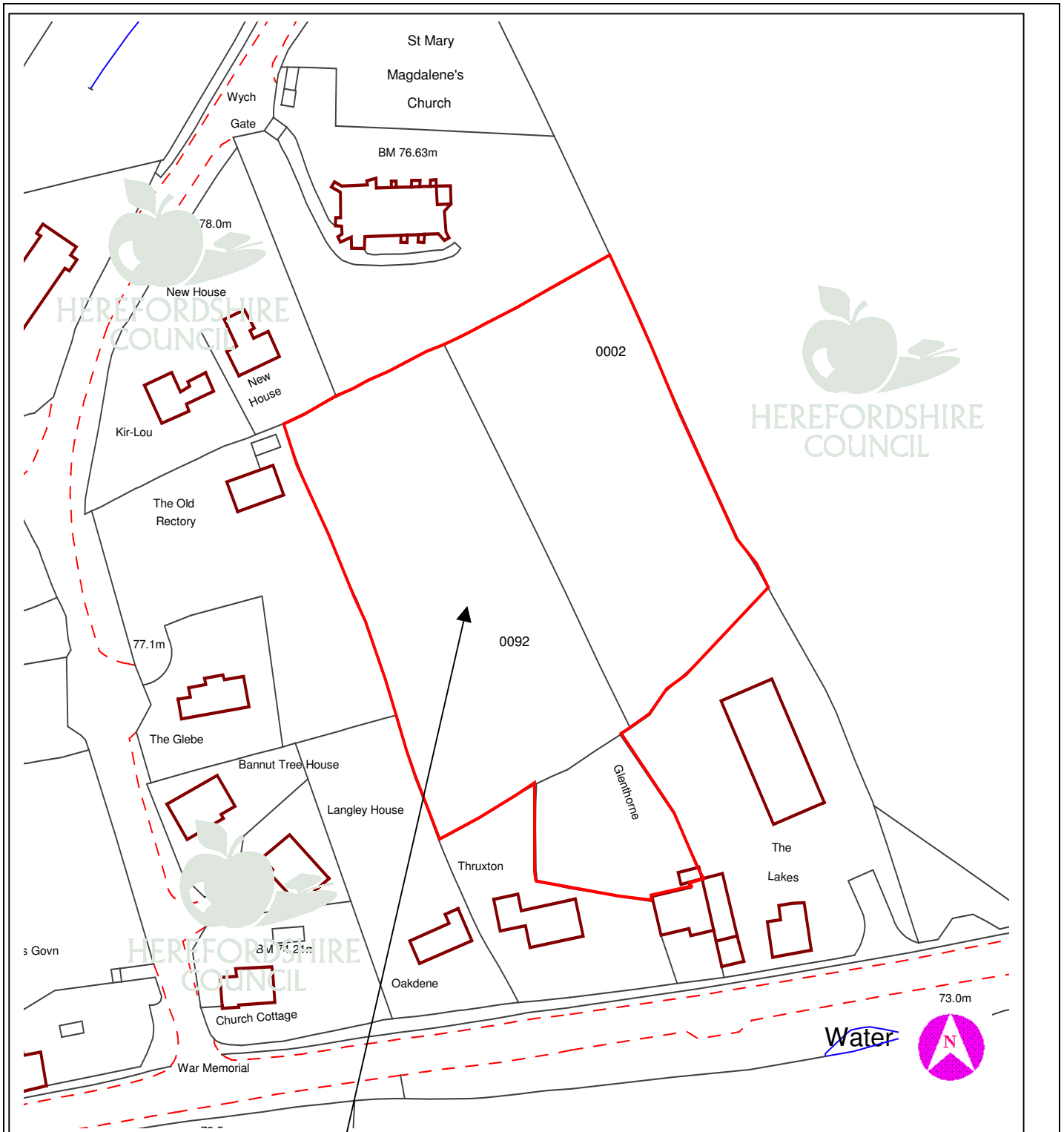
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCW2006/0798/G

SCALE : 1 : 1250

SITE ADDRESS : The Lakes, Swainshill, Hereford, HR4 7PU

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