

**7 DCSE2006/1871/F - NON-COMPLIANCE WITH
CONDITION 5 OF PLANNING PERMISSION
SE2005/1118/O : RELAXATION OF HIGHWAY SPLAYS
AT HAZELNUT COTTAGE AND ADJOINING LAND,
LLANGROVE, NR. ROSS-ON-WYE, HEREFORDSHIRE.**

**For: Paul Smith Associates, 19 St Martin Street,
Hereford, HR2 7RD.**

Date Received: 12th June, 2006 Ward: Llangarron Grid Ref: 52448, 19305

Expiry Date: 7th August, 2006

Local Member: Councillor Mrs J.A. Hyde

1. Site Description and Proposal

- 1.1 The application site comprises the eastern half of a field, formerly part of the farm at Llangrove Cottage. Outline planning permissions have been granted for residential development and for the erection of 5 houses and a bungalow. In the latter case permission was granted subject to a condition (no 5) requiring that:

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 33 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety.

The current application seeks to vary that condition by relaxing the visibility splay requirement. A number of alternatives are suggested in the letter of application:

- (i) splay measured from within the carriageway rather than the edge of the carriageway
 - (ii) splay to end within the highway not at its nearside
 - (iii) relax length of splay
 - (iv) provide a 2.1 m deep verge ('cordon sanitaire') between the new access and boundary with the new housing site at the rear of the Royal Arms Inn, which would combine with the new access at the latter development.
- 1.2 The western half of the field (land rear of the Royal Arms Inn) has now been developed (6 houses) and a similar condition to that quoted above was attached to the outline permission for that development. The access at that development does not meet the requirements of the condition with regard to visibility to the east of the access and an application has been submitted by the developer to vary that condition. This is the subject of a separate report on the current Agenda.

2. Policies

2.1 Planning Policy Guidance

- PPG.3 - Housing
- PPG.13 - Transport

2.2 Hereford and Worcester County Structure Plan

- Policy H16A - Housing in Rural Areas
- Policy H18 - Residential Development in Rural Settlements

2.3 South Herefordshire District Local Plan

- Policy SH.6 - Housing Development in Larger Villages
- Policy SH.8 - New Housing Development Criteria in Larger Villages
- Policy T.3 - Highway Safety Requirements
- Policy GD.1 - General Development Criteria

2.4 Herefordshire Unitary Development Plan (Revised Deposit Draft)

- Policy H.6 - Housing in Smaller Settlements
- Policy H.13 - Sustainable Residential Design
- Policy T.8 - Road Hierarchy
- Policy T.11 - Parking Provision

3. Planning History

3.1	SH900008PO	Two-bedroom dwelling and garage.	-	Permitted 7.3.90
	SH900733/PM	Two bedroom dwelling and garage.	-	Permitted 27.7.90
	SH911112PF	New access	-	Refused 24.10.91
	SH930019PF	Amended positioning of access and garage	-	Permitted 8.2.93
	DCSE2004/1949/O	Residential development	-	Approved 01.09.04
	DCSE2004/3427/O	Erection of 5 houses and one bungalow.	-	Withdrawn 30.3.05
	DCSE2005/1118/O	Site for the erection of five houses and one bungalow.	-	Approved 9.6.05
	DCSE/2178/F	Non-compliance with condition 5 of Planning Permission SE2005/1118/O relaxation of highway visibility splays	-	Refused 26.8.05

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

4.2 The Traffic Manager's comments are awaited.

5. Representations

5.1 The applicant has submitted a letter explaining the application. In summary the following points are made:

- (i) the outline permission for 5 dwellings and a bungalow has yet to be implemented
- (ii) both the developers of this site and the adjoining land are reliant upon each other to secure their western and eastern splays respectively
- (iii) the developer of the adjoining land (Freemans) have not provided the required eastern splay although the houses have been completed and the Council appears reluctant to enforce
- (iv) consequently the developers of Hazelnut Cottage site are unable to secure their own western splay
- (v) Council has previously judged that a splay below 2 m x 33 m is unacceptable in highway terms and no reason to suppose road conditions have changed
- (vi) this proposal is to enable the development to progress and hence that Freeman's eastern splay is created.
- (vii) various options explained (see paragraph 1. above).

5.2 Llangarron Parish Council strongly object to this application on the grounds that visibility, as they have always stated, is totally inadequate for the application.

5.3 4 letters of objection have been received, which in summary cite the following concerns:

- (1) a major concern is highway safety: Royal Arms development has resulted in 20 cars or more leaving site in early morning and visibility is restricted by a fence erected by the owner of Hazelnut Cottage. Why was this development allowed to proceed?
- (2) access is at narrow part of the highway, there are no footways, young children walk along road to school - in these circumstances adequate visibility is vital and see no reason to relax the existing requirements
- (3) another access onto this incredibly busy main village road with restricted visibility would be dangerous - unless traffic calming works are carried out serious injury or deaths are inevitable
- (4) the two developments would total 12 houses yet no affordable housing has been required, contrary to the Council's policies

- (5) further deterioration of the environment through large scale development - saturation point has been reached
- (6) major development is not sustainable (only 2 buses a week, no shop or other amenities) and consequent use of cars harms the village environment
- (7) overlooking resulting in loss of privacy
- (8) development is of no advantage to the village.

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

6. Officer's Appraisal

6.1 The principle of development on this site has been accepted by the Council in granting outline permission. The effect on the environment of the village and the amenities of neighbours, highway safety and affordable housing were all considered fully by the Committee. Since then the Herefordshire Unitary Development Plan Inquiry has been held and the emerging policies for residential development in rural area can now be given significant weight. Under these policies Llangrove is a smaller settlement and only infilling of small gaps (no more than 30 m) will be permitted (Policy H6). Nevertheless the existing outline permission is a material consideration and it would be reasonable to re-consider one of the conditions attached to that permission.

6.2 The Traffic Manager has carefully considered the access to this development on several occasions and has concluded that 2 m x 33 m is the minimum requirement to ensure highway safety. Thus permission to relax the condition was refused (SE2005/2178/F) for the following reason:

"The Council considers that a visibility splay of 2 m x 33 m is the minimum necessary for safe access to the highway which is subject to a 30 mph speed restriction and that condition no. 5 is necessary to ensure that this standard of access is carried out. It is therefore contrary to Policy T3 of the South Herefordshire District Local Plan."

None of the variations suggested by the applicant (see paragraph 1.1 above) would in themselves reach that minimum requirement.

6.3 There are two courses of action that the Council could take. Firstly if this development goes ahead both the Hazelnut Cottage and Royal Arms schemes would have 2 m x 33 m visibility splay to west and east respectively. The applicant claims that the main impediment to development is this condition as no agreement with the developer of the adjoining site has proved possible. His argument is that relaxing this condition, at least with regard to the splay looking west, would paradoxically allow the full splay to be achieved at both new accesses. Taking this course it would be reasonable to ensure maximum visibility to the west by requiring a 2 m verge at the back of the carriageway to the west of the access as far as the site boundary (about 10 m). This is the cordon sanitaire referred to in paragraph 1.1. However this does rely on the developer at the Royal Arms not erecting on his land (but outside his visibility splay) any obstruction to visibility. This cannot be a requirement attached to permission for development at Hazelnut Cottage but is in fact recommended in relation to an application relating to the Royal Arms scheme (see Agenda item 6).

- 6.4 The alternative course of action would be to refuse permission on the grounds that 2m x 33 m is the minimum and to relax this would not ensure (*pace* applicant's argument) that the minimum splay would be achieved.
- 6.5 The first course of action relies on the Council requiring a verge on the Royal Arms site. There are compelling grounds for imposing such a condition, as explained in Agenda item 6 and it can be enforced against non-compliance. Consequently the Council is recommended to grant permission with a revised condition no. 5.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 **A02 (Time limit for submission of reserved matters (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 2 **A03 (Time limit for commencement (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 3 **A04 (Approval of reserved matters)**
Reason: To enable the local planning authority to exercise proper control over these aspects of the development.
- 4 **A05 (Plans and particulars of reserved matters)**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 5 **Before any other works hereby approved are commenced, a visibility splay shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 33 metres to the west along the nearside edge of the adjoining carriageway and a 2-metre verge shall be provided at the rear of the carriageway between the new access and the western boundary of the application site. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land or the verge so formed which would obstruct the visibility described above.**
Reason: In the interests of highway safety.
- 6 **H06 (Vehicular access construction)**
Reason: In the interests of highway safety.
- 7 **H13 (Access, turning area and parking)**
Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

8 W01 (Foul/surface water drainage)

Reason: To protect the integrity of the public sewerage system.

9 W02 (No surface water to connect to public system)

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.

10 W03 (No drainage run-off to public system)

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

11 H27 (Parking for site operatives)

Reason: To prevent indiscriminate parking in the interests of highway safety.

Informatives:

1 If a connection is required to the public sewerage system, the developer is advised to contact the Dwr Cymru Welsh Water's Network Development Consultants

2 HN04 - Private apparatus within highway

3 HN05 - Works within the highway

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

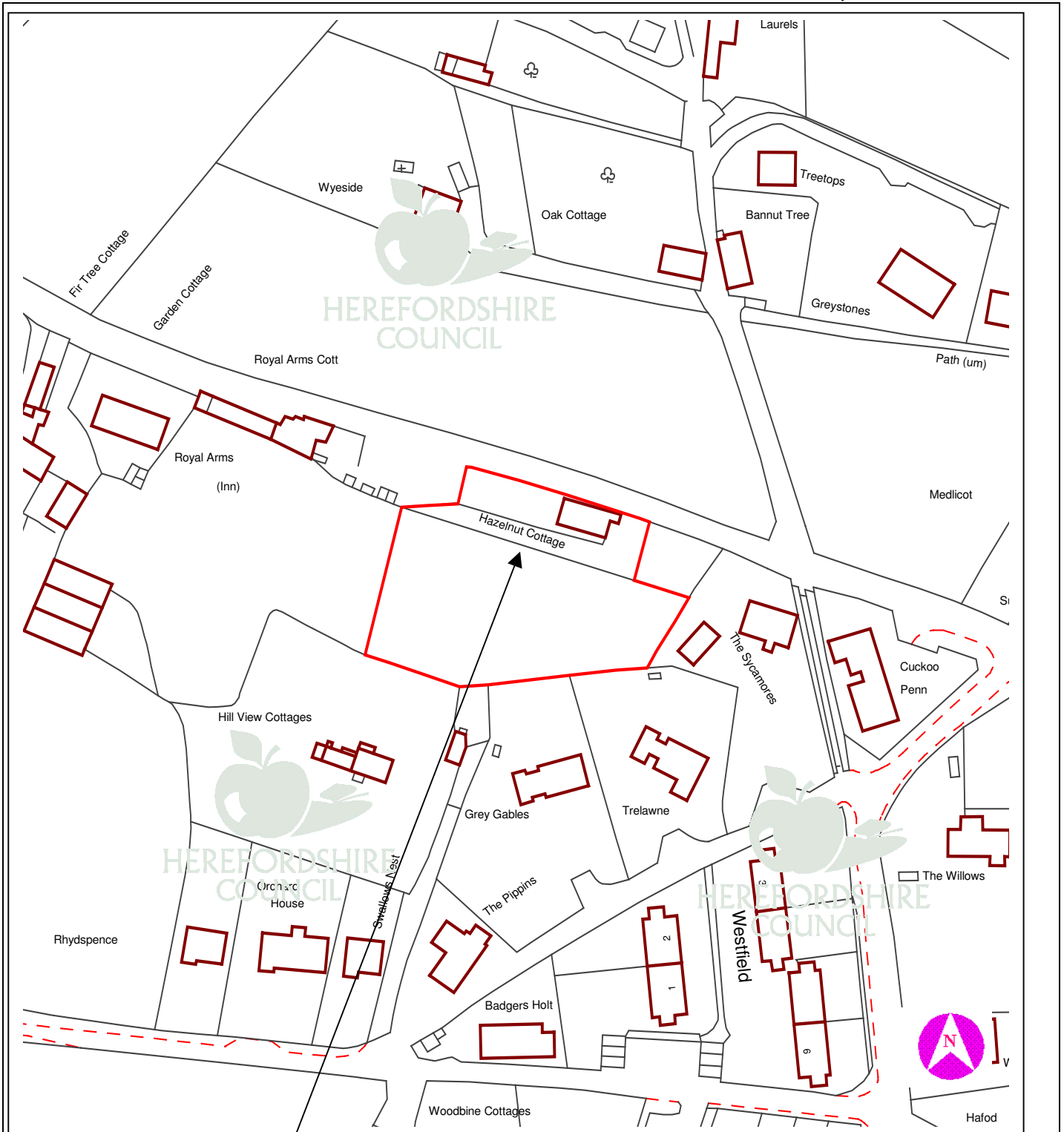
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCSE2006/1871/F

SCALE : 1 : 1250

SITE ADDRESS : Hazelnut Cottage and adjoining land, Llangrove, Nr. Ross-on-Wye, Herefordshire.

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