

DELEGATED DECISION REPORT

APPLICATION NUMBER

183651

Land off Traherne Close, Lugwardine, Herefordshire,

CASE OFFICER: Mrs Charlotte Atkins
DATE OF SITE VISIT: 8.11.2018

Relevant Development Plan Policies: CS - SS1, SS2, SS3, SS4, SS6, RA1, RA2, H1, H3, OS1, OS2, MT1, LD1, LD2, LD3, LD4, SD1, SD3, SD4, ID1.

BLNDP

The Bartestree with Lugwardine Neighbourhood Development Plan was made on 1 December 2016. It now forms part of the Development Plan
BL1, BL3, BL4, BL7, BL12,

NPPF

Chapters 1, 2, 4, 5, 6, 8, 9, 11, 12, 15, 16

Relevant Site History: 151549 - Proposed erection of 7 no. dwellings – APPROVED 19.1.2016

171157 - Application for the modification or discharge of planning obligations – approved .6.2017

174505/XA2 – Application for approval of details reserved by conditions of 151549 – approved 22.5.2018

174263/AM - Proposed non-material amendment ref 151549 (Proposed erection of 7 dwellings) - Car ports replaced with garages -approved 18.12.2017

183264/AM - Proposed non-material amendment to planning permission ref 151549 (Proposed erection of 7 dwellings) - Change plot 6 from bungalow to chalet bungalow – REFUSED 12.9.2018

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	✓		✓		
Transportation	✓	✓			
Open Spaces	✓	✓			
Ramblers	✓	✓			
PROW	✓✓			✓	✓original
Site Notices	✓	✓			
Local Member	✓see below				

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

Planning permission was granted last year for the erection of 7 dwellings comprising bungalows and dormer bungalows on land off Traherne Close, Lugwardine. As approved plots 1, 2, 6 and 7 are single storey dwellings and plots 3, 4 and 5 are dormer bungalows. Development has commenced on site.

This is an application under s 73 of the Act, to vary condition 2 of planning permission 151549/F to allow the amendment of the dwelling on plot 6, which lies to the northeast corner of the site and to the northwest of 26 Traherne Close. As approved Plot 6 should comprise a bungalow, but permission is sought to vary this to a dormer bungalow (of the same type as plots 3-5). In addition the submission includes replacing the approved carports with garages, however this has already been approved under NMA 174263/AM – drawing 1260-5 Rev A. The stated reason for the proposed amendments is to respond to purchasers' requirements.

An earlier minor non-material amendment (183264/AM), under s 96 of the Act, for the revisions to plot 6 was refused as it was considered that the revisions were not non-material.

As approved – Plot 6



As proposed – plot 6



As approved the height of the roof ridge of the bungalow for plot 6 would be 5.47m and as proposed some 6.7m. The eaves heights, as approved and proposed, would be 2.5m. The revised property proposed would provide accommodation over two floors, with the first floor being within the roof void and facilitated by dormers to both front and rear elevations and a projecting gable including a balcony to the rear elevation. As approved the dwelling would provide three bedroomed accommodation and as proposed it would have four.

The originally submitted plans have been corrected:

- to include the balcony to the rear elevation on the side elevations
- indicate the legal line of the PROW

Representations:

PROW

The line of public footpath shown on the applicant's plan has changed from the first application (151519), to this one. The footpath is now drawn incorrectly where it exits the site on the eastern boundary. PROW do not seem to have been consulted on 174505 when this change took place. We object to any further amendments until the public footpath LU10 is drawn on the correct line.

PROW – amended plans

Providing the legal line of public footpaths LU10 and LU12 remain open and unobstructed, PROW will not object to the application.

Transportation

There are no issues or concerns from a highways perspective in relation to this variation of condition.

Conclusion

No Objections

Parish Council

Support.

Ward Member

Cllr Greenow was updated by email of 11.12.2018 – no response received, so delegated decision agreed by default.

Pre-application discussion:

No – but see 183264/AM 0 refusal of NMA application for the same proposal – plot 6 and 174263/AM – approval of replacement of carports with garages.

Constraints:

PROW

Appraisal:

Policy context and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the ‘made’ Bartestree with Lugwardine Neighbourhood Development Plan (BLNDP). In terms of the Development Plan it should be noted that since the grant of permission in 2016 (151549/F) the BLNDP has been made and therefore forms part of it with the CS. The National Planning Policy Framework 2018 is a significant material consideration.

Development has commenced in respect of 151549/F for the erection of 7 dwellings. The approved NMA for garages provides the option of erecting either the originally approved carports or garages. On this basis this application, under s 73, only relates to the substitution of dwelling type on plot 6.

The Government acknowledge in the NPPG that new issues may arise after planning permission has been granted, which require modification of the approved proposals. They advised that where these modifications are fundamental or substantial, a new planning application under section 70 of the Town and Country Planning Act 1990 will be required. Where less substantial changes are proposed, the following options for amending a proposal that has planning permission may apply:

- Making a non-material amendment
- Amending the conditions attached to the planning permission, including seeking to make minor material amendments

The first of these options, under s 96A, has been refused and this application seeks approval under the second option.

There is no statutory definition of a ‘minor material amendment’ but the NPPG advises that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

In this case permission has been granted for seven dwellings with two different property types. This proposal is to substitute the property type from the approved bungalow to the dormer bungalow approved for plots 3-5. The footprint of the proposed property would differ in shape to the approved and fundamentally the property would be some 1.3m taller, incorporating a centralised large dormer to the principal elevation and dormer and projecting gable with balcony to the rear.

Unlike for a s96A application, consultations with local residents through site notices being displayed, has been carried out. No objections have been received.

When the amended proposal is considered as part of the wider site, with approval for 7 dwellings, the differences to this plot, whilst discernible, are considered to be acceptable. The relationship of the revised dwelling for plot 6 with the existing dwellings on Traherne

Close has been appraised, and due to the distances/angles between them and the provision of a bathroom window only to the front elevation, ensures that privacy is not impinged upon.

With regards the legal line of the PROW, this has now been corrected on the Site Plan and the PROW Manager has no objection subject to it being unobstructed.

The Transportation Manager has confirmed there are no objections, so the scheme remains in accordance with CS policy MT1 and BLNDP policy BL12.

A section 73 application, such as this, results in a new planning permission and as per the NPPG the expiry date of the new permission is as per the original. As development has commenced in this case it is not necessary to reimpose this. In addition when granting permission the new decision notice should describe the whole development and listing all conditions. I have amended the description and modified the conditions of 151549/F to reflect that the details have been approved (174505/XA2), in line with these procedural requirements.

RECOMMENDATION: **PERMIT** ☒ **REFUSE** ☐

CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:

(please note any variations to standard conditions)

1 The development shall be carried out strictly in accordance with the approved plans (drawing nos. 1260.1B, 1260.3, 1260.2, 1260.4, 1260.13A and 1260.5A), except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved amended plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan -Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

2 Development shall be carried out in accordance with the approved material details (151549/F condition 3– 174505 letters dated 9.1.2018 or 28.6.2018).

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan - Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

3 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

4 The approved parking for site operatives and visitors (151549/F condition 5– 174505 letter dated 9.1.2018) shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking, with immediate effect, in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan - Core Strategy, policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

5 The construction of the vehicular access shall be carried out in accordance with the approved specification for a temporary construction surface (151549/F condition 6 – 174505 letter dated 9.1.2018)

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan - Core Strategy, policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

6 The development shall be carried out in accordance with the approved details for road and drainage infrastructure (151549/F condition 7 – 174505 letter dated 12.3.2018) and shall be completed prior to first occupation of the development hereby permitted.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan - Core Strategy, policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

7 The soft landscaping scheme approved under condition 8 of 151549/F (174515 letter dated 22.5.2018) shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan - Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

8 Development shall be carried out in accordance with the approved measures for tree and hedgerow protection as approved under condition 10 of 151549/F (174505 letter dated 12.3.2018).

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan - Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning

Policy Framework. The commencement of development in advance of these measures may cause irreparable damage to features of acknowledged amenity value.

9 Foul water and surface water discharges must be drained separately from the site.

Reason: To protect the integrity of the public sewerage system and to comply with Policy SD4 of the Herefordshire Local Plan - Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

10 No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage 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 so as to comply with Policy SD4 of the Herefordshire Local Plan - Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

11 No land drainage run-off will be permitted, either directly or indirectly, to discharge into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment so as to comply with Policy SD4 of the Herefordshire Local Plan -Core Strategy, policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

12 Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing - Optional Technical Standards - Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development.

Reason: To ensure water conservation and efficiency measures are secured, in accordance with Policy SD3 (6) of the Herefordshire Local Plan Core Strategy 2011-2031.

Informatives

1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided

that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.

3 This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

4 Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

5 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

6 It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

7 It is now mandatory for all developers who wish to connect to the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water. The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to connect to the public sewerage system under Section 106 of the WIA 1991, to be granted by Dwr Cymru Welsh Water.

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 9172652

8 The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

Signed:  Dated:18.12.2018.

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT ☒

REFUSE ☐

Signed:  Dated: 19.12.18