

DELEGATED DECISION REPORT

APPLICATION NUMBER

201255

Moor Court Barn, Lyonshall, Kington, HR5 3LA

CASE OFFICER: Mr Adam Lewis
DATE OF SITE VISIT: 5th May 2020

**Relevant Development
Plan Policies:**

Herefordshire Local Plan – Core Strategy

SS1 Presumption in favour of sustainable development
SS6 Environmental quality and local distinctiveness
MT1 Traffic Management, highway safety, active travel
LD1 Landscape and townscape
LD2 Biodiversity and geodiversity
LD3 Green Infrastructure
SD1 Sustainable Design and energy efficiency

Pembridge Neighbourhood Development Plan

Policy PEM1 – Promoting Sustainable Development
Policy PEM18 – Retaining Natural Environment and Landscape
Policy PEM19 – Protecting Heritage Assets
Policy PEM23 – Sustainable Design
Policy PEM24 – Traffic Measures within the Parish
Policy PEM25 – Highway Design Requirements

National Planning Policy Framework

1. Introduction
2. Achieving sustainable development
4. Decision-making
9. Promoting sustainable transport
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Relevant Site History: **P153665/PA4** - Proposed change of use of barn into dwellinghouse – Prior Approval not required

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	X		Support		
Transportation	X		X	X	
Landscape	X		X	X	
Ecologist	X		X	X	
Gardens Trust	X	X			
Press/ Site Notice	X	X			
Local Member	X		X		

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The application relates to a cluster of development in the open countryside around Moor Court, broadly equidistant between Lyonshall and the small hamlet of Weston. The Moor Court locale comprises a range of development which includes a dwelling recently created through the conversion of an agricultural building via the Class Q permitted development procedure. The dwelling lies on the edge of a pasture field to the west of Garden House. It is currently access via shared private drive which links to the A44 approx. 1km to the north.

The current application seeks planning permission for the creation of a new access and driveway to serve Moor Court Barn. The access would cross the pasture field to the south of the barn and emerge onto the unclassified Moor Court Lane in the position of an existing field gate. Removal of approximately 20m of hedgerow would be needed to deliver visibility to the east. A new track would be formed of gravel and a new hedgerow would be planted along the length of the access. The use of the existing access to the A44 by this property would cease.

Representations:

Local Member – Updated via email 7th July 2020. No objections have been offered and no redirection request has been made.

Parish Council – Support the application

Transportation Manager – No Objection following amendments

Following the previous highways comments on this application the outstanding clarification was the visibility to the east from the proposed access. A new drawing with some amendments has been submitted and sets out a splay to the closest channel as set out in diagram 10.2 of the DfT's Manual for Streets 2 document. This document also sets out that in some situations a small offset from this channel is acceptable and the LHA is satisfied that this arrangement is acceptable for the low speed environment that the access is located in. There are no highways objection to the proposal.

Planning Ecologist – No objection following amendments

The comments from Landscape have already suggested conditions to secure all of the proposed compensatory hedgerow planting and protection of any retained hedgerow or trees that could be impacted through any part of the development process.

Given the short length of hedgerow to be removed and the available information there are no immediate ecology related concerns with this proposal. There are no ecological records or findings of the ecology report of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require further information as part of the planning application or include a specific ecology protection condition. However an information note is requested.

Based on the location, existing hedgerow connections and access points, and ecology report there is no significant loss of hedgerows from an ecology perspective associated with this development and an overall net gain in biodiversity value and connectivity can be achieved.

The site is within open countryside and the area and highway/wildlife corridors known to be utilised by nocturnal protected species such as bats and owlss. No external lighting associated with the development should be installed such as to ensure the local 'intrinsically dark landscapes are maintained for public amenity and nature conservation interests. A condition is requested to secure the required compliance.

Landscape Officer – No objection following amendments

The applicant has addressed recommendations made on the previous landscape comments, dated 22/05/2020 in the most part. The remaining road needs to be continued with hedgerow planting and the area around the building and along the wooded area needs to avoid potential root damage or removal of trees.

To reduce the visual impact of the new road, ensure the road colour is not white or light coloured aggregate (utilising a material colour that is recessive in the landscape). Submit the above recommendations as part the following conditions.

Pre-application discussion:

None sought. Proposal amended as part of application process.

Constraints:

Open Countryside Landscape Character
Unregistered Park and Garden – Moor Court
Priority Habitat – Woodland, pasture and parkland – Moor Court
SSSI Impact Risk Zone

Appraisal:

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 Pembridge Neighbourhood Development Plan (NDP). The National Planning Policy Framework 2019 is also a significant material consideration.

Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the NPPF. Policy SS1 also confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

The application in this case seeks planning permission for the creation of a new access and drive onto the unclassified Moor Court Lane. The access would serve a barn conversion dwelling known as Moor Court Barn and would be provided in lieu if the existing arrangement which utilizes a shared drive to the A44 to the north. It is understood that the current shared arrangement is impractical and undesirable from an amenity perspective given its proximity to the Garden House. The main issues to consider are whether the proposal is acceptable in terms of preserving the safety of the highway network; protecting the character of the townscape; and ensuring features of biodiversity value are given adequate consideration.

In respect of matters pertaining to highways and transport impacts of new development Core Strategy policy MT1 is applicable. This requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space. Similarly, policy PEM25 of the NDP requires that development proposals ensure safe access onto adjacent roads is delivered and that there is no detriment to the efficient operation of the network.

The new access onto Moor Court lane would be created in the position of an existing field gate. A part of the application process, amended plans have been supplied which clarify the achievable visibility splays onto the adjacent highway – 2.4m x 33m to the east and 2.4m x 60 to the west. The nature of the highway in the locale is such that traffic speeds and volumes are limited, and therefore the Transportation Manager offers no objections. Safe access can be achieved in accord with MT1 / PEM25 and provision of splays will be secured by condition.

Conditions will also be attached to restrict the use of the access to the subject property only, which will ensure the access is only used for domestic use by a single property in accord with the details applied for and in accordance with the design specification of the access. Conditions will also be attached to secure the cessation in use of the current arrangement and to control the provision of any gates which may impact the safe operation of the highway.

In considering the potential for impact on landscape character as a result of the new track and access, CS policy LD1 is relevant in so far as it requires that proposals should demonstrate that they have been positively influenced by the character of the landscape and townscape. It is also noted that the site is within the unregistered park and garden of Moor Court, and LD1 also states that development should seek to conserve, preserve and enhance such features. PEM18 and PEM19 contain similar requirements. In relation to the impact upon the hedgerow, policy LD3 requires that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure such as trees, woodlands and hedgerows. Policy LD2 of the CS also states that all development proposals should conserve, restore and enhance the county's biodiversity assets wherever possible.

In order to support the delivery of visibility splays, the application entails the loss of around 20m of roadside hedgerow. The Council's Ecologist however has not objected to this on the basis that a replacement would be planted and new hedge would also be established along the entirety of the western edge of the new track. This will be secured by condition to ensure compliance with LD1, LD2 and PEM18. Further conditions are recommended in relation to lighting and the preservation of dark skies.

In relation to landscape impact, the removal of roadside hedgerow would lead to an interruption of the frontage of hedgerow which currently makes a positive contribution to the rural character of the area. However, the scale of the works proposed are relatively modest in their extent and the subsequent impact is also considered to be limited. Moreover, the presence of access tracks and sporadic breaks in hedgerow are not uncharacteristic of the surrounding area and therefore the development would not appear incongruous with the setting. There would be visual impacts through the translocation of hedgerow, but these would be short term and would abate as the new planting scheme becomes established. Further mitigation would be delivered by the planting along the tracks length. The Council's Landscape Officer has offered no adverse comments on the basis of the amended scheme and it is not considered there would be any undue impact upon Moor Court unregistered park and garden. It is not therefore considered therefore that any harm occurs which lead to conflict with LD1 or PEM 18.

On the basis of the above, the application is considered to be an acceptable form of development and no conflict with the development plan has been identified. It is consequently recommended for approval subject to the conditions set out below.

The Local Member has been updated and no redirection request has been made.

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

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

(please note any variations to standard conditions)

1. C01
2. C06 – Plan 201024-1 and amended plan 201024-2-RevA received 15th May 2020
3. Prior to the first use of the access and driveway hereby approved, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 60m to the west and 33 metres to the east along the nearside edge of the adjoining carriageway, in accordance with the details shown on approved plan 201024-2-RevA. 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 and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy PEM25 of the Pembridge Neighbourhood Development Plan and the National Planning Policy Framework.

4. The use of the access and driveway hereby approved shall be for the benefit of the dwelling known as Moor Court Barn only.

Reason: In order to ensure the access is used in line with terms applied for and to ensure levels of traffic movements remain commensurate with the nature of the access in the interests of the safe and efficient operation of the network in accordance with Policy MT1 of Herefordshire Local Plan – Core Strategy, policy PEM25 of the Pembridge Neighbourhood Development Plan and the National Planning Policy Framework.

5. Within one month of the first use of the access hereby approved, the use of the existing access to the A44 by Moor Court Barn shall permanently cease in accordance with the details shown on the approved plans.

Reason: In order to ensure the development is carried out in line with terms applied for and to ensure there would be no justified harm to the landscape or detriment to highways safety in accordance with policies LD1 and MT1 of the Herefordshire Local Plan – Core Strategy, policy PEM18 and PEM25 of the Pembridge Neighbourhood Development Plan and the National Planning Policy Framework.

6. Any new access gates or doors shall be set back a minimum of five metres from the adjoining carriageway edge and shall be made to open inwards only.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy PEM25 of the Pembridge Neighbourhood Development Plan and the National Planning Policy Framework.

7. The scheme of hedge planting shown on approved plan 201024-2-RevA, including the formation of a new hedge along the entirety of the western boundary of the new access track, shall be carried out in accordance with the supplied specification and planted in the first planting season following the first use of the access hereby approved. The new hedges shall be maintained for a period of 5 years. During this time, any shrubs that 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.

Reason: In order to maintain the visual amenities of the area and to conform with Policies LD1 and LD2 of the Herefordshire Local Plan – Core Strategy, policy PEM18 of the Pembridge Neighbourhood Development Plan and the National Planning Policy Framework.

8. At no time shall any external lighting be installed on any part of the upgraded access road that could increase illumination of any adjacent natural habitat or increase any illumination level of the local skies; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/19)

Informatives

1. IP2 – Approved following amendment
2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Badgers, Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally

protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

A.M.L.

Signed:

Dated: 7th July 2020

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

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REFUSE

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Signed:

KOD

Dated: 8/7/2020