

REFUSAL OF PLANNING PERMISSION

Applicant:

Mr Nick/Tara Sharma
50 Owlsmoor Road
Sandhurst
GU47 0SN

Agent:

Mr James Murphy
19 Caldwell Court
Walmer Street
Hereford
Herefordshire
HR4 9JD

Date of Application: 26 September 2022

Application No: 222799

Grid Ref:351152:241452

Proposed development:

SITE: Land off Kings Crescent, Hereford, Herefordshire

DESCRIPTION: Proposed development of 4 no. detached bungalows for retirement/disabled living. Renewable energy supplies, also disability scooter storage and bicycle storage, acoustic fencing and natural species planting to enhance bio-diversity.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been REFUSED for the carrying out of the development described above for the following reasons:

- 1 The existing shared private driveway accessed from Kings Crescent currently serves four dwellings. The proposed elongation of the shared private driveway would see it serve a total of eight dwellings. This exceeds the maximum number of dwellings for shared private drives, as set out in Herefordshire Council's Highways Development Design Guide (2006). The proposed site layout also conflicts with other relevant Design Guide criteria and includes insufficient space to accommodate parking provision for wheelchair users, which is at odds with the intended purpose of the housing as retirement or disabled living. The proposal thereby runs contrary to Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and the aspiration of paragraphs 110 and 130 of the National Planning Policy Framework to provide for safe, inclusive and accessible places.
- 2 The proposed development site, by reason of its limited 3.1m wide access at the entrance adjoining 39 Kings Crescent and the narrow, linear shape of the land holding, is unsuitable to accommodate the proposed residential development. This is due to the associated inability to safely accommodate emergency vehicle access or make practicable provision for waste storage and collection services. Moreover, having regard to the proposed access lying adjacent and elevated in relation to the operational railway network, there is insufficient information (such as engineering details and cross sections) to demonstrate that the works are achievable in construction terms. Accordingly, the proposal conflicts with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and paragraphs 110, 111 and 112 of the National Planning Policy Framework.

- 3 The proposed development, by reason of the close proximity and restricted width of the proposed access arrangements in relation to the dwelling and private rear garden at 39 Kings Crescent, would result in a significant adverse impact on the residential amenity of its occupiers. This is in respect of the level of tranquillity and privacy currently enjoyed and the harmful impact of traffic, including delivery vans, likely to be generated by the housing. In addition, by reason of overlooking from the roof terrace to Plot 4, the proposal would harm the privacy enjoyed by Kingsway residents whose gardens lie to the east of the site. Accordingly, the proposal is contrary to Policy SD1 of the Herefordshire Local Plan – Core Strategy and paragraph 130 of the National Planning Policy Framework.
- 4 The surface water drainage strategy has failed to provide sufficient evidence to demonstrate with the required certainty that the proposed development would not, alone or in combination, lead to significant adverse water quality impacts on the integrity of the River Wye Special Area of Conservation. As such, the application has not undergone Appropriate Assessment required by the Habitat Regulations, given the site location within the hydrological catchment of the River Wye SAC. The proposal therefore conflicts with the Conservation of Species and Habitats Regulations 2017 (as amended), Policies LD2 and SD3 of the Herefordshire Local Plan - Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 179 - 182 of the National Planning Policy Framework.

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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

Planning Services
PO Box 4,
Hereford,
HR4 0XH



SIMON WITHERS
DEVELOPMENT MANAGER

Date: 16 January 2023

YOUR ATTENTION IS DRAWN TO THE FOLLOWING NOTES

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

- If you want to appeal, then you must do so within 6 months of the date of this notice, or 12 weeks if the scheme is for that of “household” development using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). For further information on judicial review please go to <http://www.justice.gov.uk>

The Council has taken into account environmental information when making this decision. The decision is final unless it is successfully challenged in the Courts. The Council cannot amend or interpret the decision. It may be redetermined by the Council only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.