

Planning and Architecture | advice | applications | drawings

Our ref: 9798 LPA1 JKW

Roland Close.
Herefordshire Council,
PO Box 230,
Blueschool House,
Blueschool Street,
HEREFORD.
HR1 2ZB.

13th June 2012.

Dear Mr. Close.

Application no. N/111899/O Proposed residential development at Porthouse Farm, Bromyard.

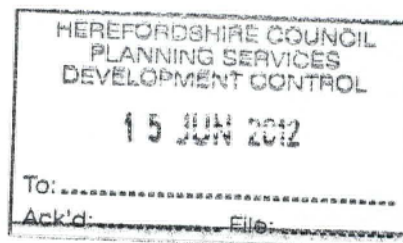
Your colleague advised that I should send a copy of the appeal that we have lodged against the Council's decision to refuse planning permission for the above application, notwithstanding the strong officer recommendation that it be approved.

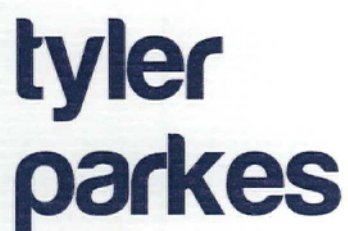
On that basis, I am pleased to enclose a copy of the appeal form together with the grounds of appeal and the list of documents and drawings.

I understand that there is a delay in registering appeals at PINS due to a backlog of cases, but no doubt that will follow shortly. In the meantime, should you require any further information, or have any queries, please do not hesitate to contact me.

Yours sincerely,


John K. Wilson. MA(Oxon), DipTP, MRTPI.
Director.
j.wilson1@tyler-parkes.co.uk





Planning and Architecture | advice | applications | drawings

Grounds of Appeal.

Appeal against the refusal of Herefordshire District Council of outline planning application no. N111899/O for the erection of up to 127 dwellings (35% to be affordable) with all matters except access to be reserved for future consideration.

Appeal submitted on behalf of Marsten Developments Ltd.

Appeal site:

Porthouse Farm, Tenbury Road, Bromyard.

Our Ref: 9798 PINS1 JKW

May 2012.



tylerparkes drawing on experience. planning for approval.

Telephone: 0121 744 5511 Address: Tyler Parkes, 66 Stratford Road, Shirley, Solihull B90 3LP E-mail: info@tyler-parkes.co.uk
Website: www.tyler-parkes.co.uk The Tyler-Parkes Partnership Ltd Registered in England No. 4102717

Grounds of appeal.

- 1.1. It will be contended that the Local Planning Authority should not have refused planning permission, contrary to the advice of their professional officers and without any supporting evidence to justify the reasons for refusal. The application should have been approved in accordance with the strong advice given by officers.
- 1.2. It will be shown that the application site was formally identified in the Herefordshire Unitary Development Plan (UDP), adopted in 2007, as a site for housing development under saved Policy H2. That policy showed the estimated capacity of the site to be 87 dwellings, including 30 affordable dwellings provided on the basis of the target provision of 35%.
- 1.3. Paragraph 5.4.27 of the UDP, which provides more detailed guidance on the development of the site, indicates that "a significant landscape buffer strip of 0.8ha is proposed for the southern boundary of the site to divide the proposed residential development from the existing employment uses". The last sentence of the paragraph states that "in respect of possible noise or fumes from the adjacent industrial estate, applicants will be required to demonstrate that, in any particular scheme, the legitimate interests of future residents and existing employers are not prejudiced".
- 1.4. Evidence will be presented to show that the Inspector at the UDP Inquiry gave careful consideration to the compatibility of residential use of the site with the adjacent Porthouse Industrial Estate, particularly in respect of possible noise nuisance from the Polytec Holden factory. The Inspector was satisfied that there was no technical evidence to indicate that the allocation would be inappropriate, and the final sentence of paragraph 5.4.27 was added on his recommendation.
- 1.5. It will be contended that the application for residential development, which is now the subject of this appeal, met the test set by that paragraph, and that the Planning Authority's professional and technical officers accepted that was the case.
- 1.6. Evidence will be presented to show that the Authority's Planning Committee granted planning permission for a retrospective application for the retention of an existing bund between the housing and employment sites, and its remodelling, on 4th April 2012 at the same meeting as the appeal proposal was considered and rejected. The officer's report recommending approval stated that "on balance, officers take the view that the bund is capable of providing the necessary landscape and noise buffer area deemed by Policy H2 to be necessary in developing the northern sector of Porthouse Farm as allocated for housing". The report noted that if regarded and landscaped to an appropriate visual appearance, as proposed, the bund would also have two useful functions:
 - As a visual and separation barrier between the existing industrial buildings and the allocated housing site, as envisaged in the preamble to Policy H2 of the UDP, and
 - As an acoustic barrier.
- 1.7. Technical evidence was also presented with the application for residential development in relation to the noise issue to satisfy the UDP Inspector's test, and it will be shown that the officers accepted that the package of noise mitigation measures proposed would ensure that occupiers of the dwelling houses would enjoy a satisfactory level of quietude, in compliance with saved UDP Policy DR13.
- 1.8. A subsequent review of noise issues, commissioned by the Council themselves, concluded that noise emissions are not expected to result in any loss in amenity at the

1. The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation

$$f(x) = \int_0^x \frac{1}{1+t^2} dt, \quad (1)$$

where x is a real number. It is shown that the function $f(x)$ is increasing and concave down on the interval $(-\infty, \infty)$.

2. In the second part of the paper, we consider the function $g(x)$ defined by the equation

$$g(x) = \int_0^x \frac{1}{1+t^2} dt, \quad (2)$$

where x is a real number. It is shown that the function $g(x)$ is increasing and concave down on the interval $(-\infty, \infty)$.

3. In the third part of the paper, we consider the function $h(x)$ defined by the equation

proposed nearby residential properties.

- 1.9. It will be demonstrated that the Planning Committee were advised that a refusal of permission based on noise would be difficult to defend as the technical evidence stated that with the mitigation measures recommended noise on the site was of a satisfactory nature and noise emanating from the site would meet the appropriate criteria. If the application was refused it would be difficult to defend at appeal, and, if the Inspector was not satisfied that sufficient evidence was available to support the refusal, the Council could be required to pay the appellant's costs.
- 1.10. In the light of that evidence and advice, it will be contended that the Council's decision to refuse the application was unreasonable.
- 1.11. In relation to the issue of light pollution, it will be shown that no concerns were raised during the consultation stage of the application and that no technical evidence was available on which to support a reason for refusal on those grounds.
- 1.12. In relation to the light pollution from the existing rugby club, it will be demonstrated that an application for increased floodlighting of the pitches was refused permission in November 2008 on the grounds that the increased use of the site in evening hours would result in an unacceptable level of detriment to the residential amenity of Winslow Lodge, which is a house located immediately adjacent to the north western boundary of the club. The reason for refusal did not identify any harm caused to that property by light pollution, despite its close proximity to the proposed lights.
- 1.13. A second application for floodlighting was then subsequently approved in March 2009, where the Local Planning Authority was satisfied that the residential amenity of nearby properties was appropriately protected, in accordance with saved UDP Policy DR14, with restrictions imposed to limit usage to no more than 4 times a week, with floodlights to be turned off by 9.30pm. The floodlights have now been erected in accordance with that permission.
- 1.14. It will be submitted that if the impact of the floodlights on the immediately adjacent dwelling at Winslow Lodge is acceptable, there can be no unacceptable level of impact on the proposed residential development at Porthouse Farm, which is some distance away.
- 1.15. In terms of the existing lighting installed on the Polytec site, the Local Planning Authority have thus far been unable to produce any planning permission that has been granted for external lighting within that site. In any event, the proposed bund and acoustic fence will effectively screen any light pollution from that source such that it will cause no impact on the adjacent proposed housing area.
- 1.16. Technical evidence will be produced to demonstrate that there will be no unacceptable impact on residential amenity arising through light pollution, and a refusal of permission on that basis must therefore be considered to be unreasonable.
- 1.17. Paragraph 11 of the National Planning Policy Framework (NPPF) confirms that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.18. It will be contended that since the appeal site has been allocated for residential development in the Development Plan, and that since there are no material considerations based on objective evidence of harm, it was unreasonable for the Local Planning Authority not to have granted planning permission.

- 1.19. The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Particular emphasis is given to the need for Authorities to demonstrate that they have a 5 year supply of deliverable housing sites. In this appeal, it will be demonstrated that Herefordshire do not have a 5 year housing land supply, and there is therefore an urgent need for this allocated site to be released now to help meet the overall shortfall in housing land supply, including the provision of affordable housing.
- 1.20. Finally, it will be contended that the Local Planning Authority have acted unreasonably in refusing permission for each of the 3 reasons given, and the appellant will make an application for a full award of costs to be made against the Authority.
- 1.21. A full statement of case will be submitted within the 6 week period to explain in more detail the reasons why it is considered that the appeal proposal should be allowed.

List of documents.

1. Affordable housing delivery plan – Bridgehouse Property Consultants.
2. Appendix 3 – Pam Brown Associates.
3. Archaeological desk based assessment – Thames Valley Archaeological Services.
4. Assessment of suitability of site for residential development with respect to noise and mitigation works – Colin Waters Acoustics.
5. Design & access statement – Hewitt Studios.
6. Ecological appraisal – Richard Tofts ecology
7. Environmental noise assessment – Three Spires Acoustics.
8. Flood risk assessment – Robert West Associates.
9. S106 heads of terms: 24 August 2011 – planning obligations manager.
10. S106 heads of terms: 9 May 2011 – planning obligations manager.
11. Landscape & visual impact assessment – Illman Young.
12. Phase 1 desk study, phase 2 environmental investigation – Pam Brown Associates.
13. Planning and community involvement support statement – Bell Cornwell.
14. Reptile survey – Richard Tofts ecology.
15. Stage 1 safety audit – Transportation Planning International.
16. Transport Assessment – Phil Jones Associates.
17. Tree Survey Report – Illman Young.

List of drawings.

1. Acoustic enclosure dust extractor. - Drwg no 60 A.
2. Acoustic enclosure to digester fan. - 01 A.
3. Acoustic louvres to compressor house A. - 30A.
4. Acoustic louvres to compressor house B. - 40 A.
5. Amended acoustic fence location plan. - 2589/027 A
6. Amended proposed bund sections. - 2589/025 B.
7. Exhaust attenuator for extract next to paint dryer fan. - 20 A.
8. Overlay of constraints plan with outline scheme design. - 2912/23 A.
9. Ownership plan. - 2589/015
10. Polytec factory with attenuated plant locations. - 2589/013
11. Proposed masterplan. - 2589/008 F
12. Proposed sections. - 2589/012 A
13. Proposed site access. - 617-05 A
14. Proposed site access 1 horizontal and vertical visibility splays. - 617-01 B
15. Proposed site access 2 horizontal and vertical visibility splays. - 617-02
16. Topographical survey. - T 5637/2
17. Tree constraints plan fig 2. - 2912/21 A
18. Tree protection plan fig 3. - 2912/22 A.
19. Tree survey plan fig 1. - 2912/20 A.

