

PLANNING PERMISSION

Applicant:

Borley
Monksbury Court
Monkhide Village Road
Monkhide
HR8 2TU

Agent:

Mr John Kendrick
Procuero Planning Services Ltd
Procuero
St Owens Cross
Hereford
HR2 8LG

Date of Application: 13 December 2019

Application No: 193574

Grid Ref:361973:243908

Proposed development:

SITE: Monksbury Court, Monkhide Village Road, Monkhide, HR8 2TU
DESCRIPTION: Change of use of Dutch barn to 2 units of new residential accommodation.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2 The development shall be carried out strictly in accordance with the approved plans (drawing numbers: Located Plan Revision D received 16 January 2020; Monksbury 1a (Plans and elevations as existing dated September 2018) and Monksbury 2e (Plans and Elevations as proposed dated July 2019)), except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill 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 7.00am - 6.00pm, Saturday 8.00am -1.00pm 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 the Herefordshire Local Plan – Core Strategy; Policies Y2 and Y3 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 4 The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by NKM Associates dated July 2019, but including in addition at least two additional bird nesting enhancements for Swallows, shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019); Policy Y2 of the Yarkhill Neighbourhood Development Plan and NERC Act 2006.

- 5 Prior to commencement of any construction approved under this consent the legally binding details of how all the shared aspects of the foul drainage scheme (and surface water scheme if applicable) will be managed for the lifetime of all connections to the new private foul water system will be supplied to the Local Planning Authority for written approval. The approved management scheme shall be hereafter implemented in full unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure ongoing compliance with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS1, SS6, LD2, SD3 and SD4 and Policies Y2, Y8 and Y9 of the Yarkhill Neighbourhood Development Plan.

- 6 Prior to commencement of any construction approved under this consent a copy of the Environment Agency 'discharge consent' granted for the mound soakaway drainage system shall be supplied to, and acknowledged in writing by the Local Planning Authority.

Reason: In order to ensure compliance with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS1, SS6, LD2, SD3 and SD4 and Policies Y2, Y8 and Y9 of the Yarkhill Neighbourhood Development Plan.

- 7 Finished floor levels shall be set at least 300mm above ground level.

Reason: To avoid surface water ingress, to protect the development from flooding and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy; Policies Y8 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 8 Prior to any dwelling approved under this decision notice being first occupied, written and illustrative details of the number, type/specification and location of electric vehicle charging points of at least one per dwelling, shall be submitted to and approved in writing by the local planning authority. The Electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: To address the requirement policies in relation to climate change, namely Policies SS7, MT1 and SD1 of the Herefordshire Local Plan – Core Strategy, to assist in redressing the Climate AND Ecological Emergency declared by Herefordshire Council; Policies Y2, Y7 and Y9 of the Yarkhill Neighbourhood Development Plan and to accord with the provisions at paragraphs 108 and 110 of the National Planning Policy Framework.

- 9 Prior to the first occupation of any dwelling approved under this decision notice, written confirmation that the legal diversion of public footpath YK2 has been formally completed, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of public enjoyment and promoting active modes of travel and to accord with Policies LD1, SS4 and MT1 of the Herefordshire Local Plan – Core Strategy; Policies Y2, Y7 and Y11 of the Yarkhill Neighbourhood Development Plan and the relevant paragraphs of the National Planning Policy Framework.

- 10 Prior to the first occupation of development, a scheme for the provision of storage, prior to disposal, of refuse and recycling for each dwelling hereby permitted shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policies Y2 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 11 Prior to completion or first occupation of the approved development, whichever is the sooner, a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

a) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.

b) All proposed hardstanding and boundary treatment.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policies Y2, Y3 and Y11 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 12 All planting, seeding or turf laying in the approved landscaping scheme in relation to condition 11 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policies Y2 and Y11 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 13 Vehicular traffic generated by the development hereby approved, shall use the access off the A417 only, as shown on the Location Plan Revision D accepted on 16 January 2020.

Reason: To ensure the safe and free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policies Y2 and Y7 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

- 14 As detailed in the Foul Drainage Strategy by Hydro International 'Revision 2' dated 23/10/2020 all foul water shall discharge through connection to new shared private foul water treatment system with final outfall to suitable mound soakaway drainage field on land under the applicant's control unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS1, SS6, LD2 and SD4 and Policies Y2, Y8 and Y9 of the Yarkhill Neighbourhood Development Plan.

- 15 All surface water shall be managed through a Sustainable Drainage Scheme on land under the applicant's control unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS1, SS6, LD2 and SD3 and Policies Y2, Y8 and Y9 of the Yarkhill Neighbourhood Development Plan.

- 16 Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.

Reason: To ensure the character of the original conversion scheme is maintained and to comply with Policy RA5 of the Herefordshire Local Plan – Core Strategy; Policy Y3 of the Yarkhill Neighbourhood Development Plan and 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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 The applicant is advised of the following:
 - a) The proposed plans should include for a fire escape windows from all bedrooms, if the only internal escape route in the event of fire is through a risk room i.e. kitchen, utility, living or dining room. If there is more than a 4.5 meter drop from bedroom windows (e.g. from the third floor), then an alternative layout should be provided so that persons can exit the property from the bedroom without the need to go through a risk room.
 - b) An appropriate automatic fire detection system complying with BS5839:2013 should be fitted to cover the whole development including common areas and leisure facilities.
 - c) If the property is in a Radon affected area, suitable mitigation measures should be put in place.

- d) There should be sufficient, secure ventilation to the outside air from all living/dining and bedrooms as well as internal bathrooms.
 - e) All bedrooms should meet the minimum room sizes laid out in the DCLG Technical housing standards.
 - f) If the property is an HMO it should comply with all aspects of the Councils Amenity standards.
- 3 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.
- 4 Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of the Road Traffic Act 1988 regarding the prohibition of driving motor vehicles elsewhere than on roads.
- 5 This permission does not extinguish any rights of way which may exist over the site nor does it imply that such rights of way may be diverted or otherwise altered.
- 6 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.

Planning Services
PO Box 4
Hereford
HR4 0XH



Date: 18 December 2020

ANDREW BANKS
DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE FOLLOWING NOTES

Notes

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

The applicant is advised that additional Council Tax payments may be sought in the event that the Valuation Office, who routinely monitor decision notices, consider any part of the development hereby permitted to be self-contained. This assessment is particularly likely to be the case in respect of flats, basement conversions, granny annexes, studio rooms and log cabins and/or where the additional accommodation contains its own kitchen, bathroom and bedroom. Further information can be found on the Council's website at <https://www.herefordshire.gov.uk/search?q=annexes>

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.