

REFUSAL OF PLANNING PERMISSION

Applicant:

Deeley Properties Ltd and Countrywide
Farmers PLC
George House
Herald Avenue
Coventry
CV5 6UB

Agent:

Mr Ed Thomas
Tompkins Thomas Planning
13 Langland Drive
Hereford
Herefordshire
HR4 0QG

Date of Application: 26 June 2020

Application No: 201718

Grid Ref:370392:236681

Proposed development:

SITE: Land South of Leaddon Way & East of Dymock Road, Ledbury, Herefordshire, HR8 2JQ

DESCRIPTION: A hybrid application comprising: An application for full planning permission for the erection of a children's day nursery (Use Class D1), food store (Use Class A1), with associated access, landscaping and associated work; and An application for outline planning permission for the erection of a medical centre (Use Class D1), with all matters bar access reserved.

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 On the basis of the detailed assessment of the retail impact of the proposals, the development would have a significant adverse impact on the viability and vitality of Ledbury town centre and therefore is contrary to policies SS1, LB1, E5 and E6 of the Herefordshire Core Strategy, Policy EE3.1 of the Ledbury Neighbourhood Development Plan and paragraphs 85 – 90 of the National Planning Policy Framework.
- 2 Having regard to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, a satisfactory and robust sequential test assessment has not been undertaken and as such the proposals are contrary to policies SS1, LB1, E5 and E6 of the Herefordshire Core Strategy and paragraphs 85 – 90 of the National Planning Policy Framework.
- 3 The proposal has implications for the viability and long term protection of heritage assets within the town centre which could fulfil an economic function, which in turn vacated, could have a detrimental impact on the character, appearance and amenity of Ledbury town centre which is a Conservation Area and an important tourist attraction. As such the proposal represents a risk to heritage assets and the character and appearance of the town centre contrary to Core Strategy policies SS1, SS6, LB1, E5, E6, LD1 and LD4, the Ledbury Neighbourhood Development Plan and the heritage aims and objectives of the National Planning Policy Framework.

- 4 The application has failed to demonstrate highways mitigation measured proposed are deliverable and safe. As such in the absence of this evidence and details the proposals are contrary to Core Strategy policies SS4 and MT1, Ledbury NDP policy TR1.1 and the aims and objectives of Chapter 9 of the National Planning Policy Framework.
- 5 The application is not accompanied by a completed Section 106 agreement which is necessary to deliver the required provisions that make the development acceptable. It is therefore contrary to Policies LB1, ID1 and MT1 of the Herefordshire Local Plan Core Strategy and the Council's Supplementary Planning Document on Planning Obligations.

Informative:

- 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

Date: 28 January 2021



KEVIN BISHOP
LEAD DEVELOPMENT MANAGER

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.