

REFUSAL OF PLANNING PERMISSION

Applicant:

Mr Kinsey Hern
Upper House
Lyonshall
Kington
HR5 3JN

Agent:

Mr Kinsey Hern
Upper House
Lyonshall
Kington
HR5 3JN

Date of Application: 21 July 2022

Application No: 222432

Grid Ref:333829:254146

Proposed development:

SITE: Summer Court Cottage, Lyonshall, Kington, HR5 3JU

DESCRIPTION: Proposed new access road to the dwelling. The current access has very poor visibility and will be closed off with a new hedge.

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 proposal entails the formation of a new vehicular access onto the C1080 and an associated track at a specification which exceeds what is required for the intended purpose to serve a single residential dwelling in accordance with the Herefordshire Council Design Guide for New Developments. The delivery of an access to this specification would entail the creation of significant new areas of hardstanding and the removal of significant lengths of established roadside hedgerow which cumulatively would have an urbanising effect that would be detrimental to the verdant rural character of the surrounding landscape; lead to the loss of valued green infrastructure assets; and result in the loss of habitat that would be detrimental to biodiversity. The harm caused in this regard is without justification given that the scale of the works proposed are unnecessary and not commensurate with the intended purpose. As such, the proposal is not considered to represent sustainable development as it would be contrary to policies SS6, LD1, LD2 and LD3 of the Herefordshire Local Plan Core Strategy, policies LE1 and LE2 of the Lyonshall Neighbourhood Development Plan and the principles established at Chapters 12 and 15 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 by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Planning Services
PO Box 4,
Hereford,
HR4 0XH



ANDREW BANKS
DEVELOPMENT MANAGER

Date: 28 November 2022

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.