

REFUSAL OF PLANNING PERMISSION

Applicant:

Mrs I Mitchell
Little Haven
Munstone
Hereford
HR1 3AD

Agent:

Mr Daniel Forrest
D A Forrest Architectural Services
Court Cottage
Bartestree
Hereford
HR1 4DA

Date of Application: 17 December 2018

Application No: 184511

Grid Ref:351551:242737

Proposed development:

SITE: Little Haven, Munstone, Hereford,
DESCRIPTION: Proposed development of two dwellings

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 proposed development is located in the River Lugg sub-catchment of the River Wye Special Area of Conservation; this European site is currently considered to be failing its conservation objectives. The nature of the proposed development (when unmitigated) is considered to result in a 'likely significant effect' on the integrity of the site as there will be an increase in phosphates being discharged as part of any foul water drainage. This adverse 'likely significant effect' has triggered the need for an 'appropriate assessment' to demonstrate using the 'best scientific knowledge in the field' and mitigation that the effect (and in-combination effect) can be fully mitigated. In the absence of sufficient information and evidence demonstrating 'beyond reasonable scientific doubt' that the harm arising from the proposal to the European site will be mitigated to remove any adverse effect to the integrity of the habitats site, the Local Planning Authority (as the 'competent authority'), is unable to ascertain that the development will not adversely affect the integrity of the River Wye Special Area of Conservation; as per Section 63 of the Conservation of Habitats and Species Regulations 2017.

It follows that the proposed development has a likely significant effect to a habitats site under paragraph 177 of the National Planning Policy Framework and so is not considered to constitute sustainable development. Further the harm to the protected habitats site is considered to constitute a clear reason for refusing the development proposed under paragraph 11 d) i. of the National Planning Policy Framework. The application is therefore contrary to The Conservation of Habitats and Species Regulations 2017, policies LD2, SD4, SS6 and SS1 of the Herefordshire Local Plan - Core Strategy (2011 – 2031), policy HS5 of the post-examination draft Holmer & Shelwick Parish Neighbourhood Development Plan, as well as the objectives and provisions of the National Planning Policy Framework.

- 2 The proposal represents unsuitable new residential development within the open countryside outside the bounds of the identified settlement boundary of Munstone. The moderate economic and social benefits derived from two open market dwellings would not outweigh the harm arising. The proposal therefore conflicts with Herefordshire Local Plan - Core Strategy policies SS1, SS4, SS6, RA1, RA2, RA3, and policy HS2 of the post-examination draft Holmer & Shelwick Parish Neighbourhood Development Plan, as well as the provisions and objectives of the National Planning Policy Framework.

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



SIMON WITHERS
DEVELOPMENT MANAGER

Date: 16 January 2020

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

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.