

REFUSAL OF PLANNING PERMISSION

Applicant:

Mr Mark Green
F M Green (Ditton Farm)
Ditton Farm
St Owens Cross
Hereford
HR2 8LL

Agent:

Mr Antony Aspbury
Antony Aspbury Associates Ltd
Unit 20
Park Lane Business Centre
Park Lane, Basford
Nottingham
NG6 0DW

Date of Application: 23 November 2017

Application No: 173780

Grid Ref:354253:223330

Proposed development:

SITE: Biddlestone Orchards, Llangarron, Ross-on-Wye, HR9 6NT
DESCRIPTION: Upgrading existing vehicular access/egress to/from the A4137 Garrenhill Road and laying out of upgraded access track

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 Insufficient information has been submitted with the application to demonstrate that the proposed development will not have a severe and detrimental effect on the highway safety to other users of the road and would not prevent the efficient flow of traffic on the network. The development has not demonstrated with any degree of certainty that the proposed access can be laid out to achieve a safe entrance and exit for the anticipated vehicle generation that will not cause harm to highway safety on the local highway network in the vicinity of the site. The harm identified to highway safety is not outweighed by the wider economic and social benefits from the wider scheme and therefore the proposal represent an unsustainable form of development and therefore fails to comply with the requirements of policy MT1 of the Herefordshire Local Plan Core Strategy 2015 and the requirements of the National Planning Policy Framework.
- 2 The application has not been supported with any surface water drainage strategy showing how surface water from the proposed development will be managed. Accordingly, the Local Planning Authority, based on the information submitted with the application, cannot be certain that the development will not increase the risk of surface water flooding hereabouts and has not adequately demonstrated that it is capable of incorporating sustainable drainage systems appropriate to its hydrological setting. Therefore the application is considered contrary to section 14 of the National Planning Policy Framework 2019, Policy SS6, SS7 and SD3 of the Herefordshire Local Plan Core Strategy 2015.

- 3 The application has not provided sufficient information and/ or certainty to demonstrate that the development proposed will not have any adverse impact or harm the integrity of the River Wye Special Area of Conservation (SAC) and Sites of Special Scientific Interests (SSSI). The application has not sufficiently demonstrated with any degree of certainty that significant harm to biodiversity resulting from the development will not occur through the proposed water management and drainage system and that any harm can be adequately mitigated against or compensated for. Therefore, the proposal has failed to demonstrate that there will not be any material harm to the biodiversity interests in the surrounding area as a result of the development and is therefore contrary to the provisions of the Conservation of Species and Habitats Regulations 2017 (as Amended), policies SS1, SS6 and LD2 of the Herefordshire Local Plan Core Strategy and paragraphs 174- 177 of the National Planning Policy Framework 2019.

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 by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. 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



Date: 26th March 2021

KELLY GIBBONS
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.