

REFUSAL OF PLANNING PERMISSION

Applicant:

Jon Hockton
North Oak Homes
C/O Agent

Agent:

Mr Chris Lane
RCA Regeneration Limited
Unit 6 De Sallis Court
Hampton Lovett
Droitwich
WR9 0QE

Date of Application: 23 May 2016

Application No: 161552

Grid Ref: 351805:247153

Proposed development:

SITE: Land off Paradise Green, Marden, Herefordshire

DESCRIPTION: Site for development of a care village comprising up to 54 residential dwellings for the over 55s and a care home of up to 40 bed spaces plus staff accommodation and communal facilities such as a restaurant, lounges and gardens

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 requisite visibility splays to provide safe access and egress between the highway network and the proposed development cannot be provided without the incorporation of third party land that does not form part of the application site or public highway. In addition, the Council considers that the proposed arrangements for pedestrians fail to make adequate provision for safe journeys on foot without which, occupants would be overly reliant on the private motor vehicle. Accordingly the scheme is contrary to the Herefordshire Local Plan – Core Strategy Policy MT1 and the degree and nature of conflict is such that the residual cumulative impacts of the development in relation to matters of movement and transportation are severe. The proposal is thus in conflict with paragraph 32 of the National Planning Policy Framework; a restrictive policy; and the development proposal is not representative of sustainable development, even in the context of the housing land supply position. Therefore, and as advised by Core Strategy Policy SS1 and paragraph 14 of the National Planning Policy Framework, planning permission is refused.
- 2 The development would also result in harm to the significance of the Sutton Walls hillfort Scheduled Ancient Monument and the Grade I listed St Mary's Church. The development is therefore contrary to Herefordshire Local Plan – Core Strategy Policies SS6 and LD4 and National Planning Policy Framework paragraph 134; it being the Council's opinion that the public benefits arising from the development do not outweigh the level of harm to the significance of the assets.

- 3 Reason for refusal no.1 and no.2 notwithstanding, the development is for large-scale residential development on land divorced from the village and considered to represent development that is contrary to the existing settlement pattern. The development would thus make a significant, detrimental incursion into open countryside with urbanising effects and concomitant loss of historic hedgerow in a manner contrary to Herefordshire Local Plan Policies SS6, RA2 (3), LD1 and LD2.
- 4 The proposal is contrary to the emerging Marden Neighbourhood Development Plan, which has passed the referendum stage and may be attributed significant weight for the purposes of decision-making. Specifically, the proposal involves development outside the identified settlement boundary that conflicts with Policies M1 and M10. Such conflict with the emerging Neighbourhood Development Plan is contrary to the Core Planning Principle set out at paragraph 17 of the National Planning Policy Framework in that it would undermine the practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.
- 5 A legal agreement pursuant to S106 of The Town and Country Planning Act 1990 (as amended) has not been completed. As such there is no legal mechanism by which the Council can require the payment of contributions that comply with the CIL regulations at Section 122(2) (b) or properly regulate the delivery, construction and occupation of the affordable dwellings. These measures are necessary to make the development acceptable and the financial contributions are considered fairly related in scale and kind with the proposal. The absence of an agreement is in conflict with Herefordshire Local Plan – Core Strategy Policy ID1, the Council's Planning Obligations Supplementary Planning Document and guidance set out in the National Planning Policy Framework 2012.

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 reasons for the refusal, approval has not been possible.

Planning Services
PO Box 230
Hereford
HR1 2ZB



Date: 19 September 2016

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES ATTACHED

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, 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.