

PLANNING PERMISSION

Applicant:

Mr & Mrs R Whittall
Mill Cottage
Bartestree
Hereford
HR1 4BA

Agent:

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

Date of Application: 18 July 2014

Application No:P142191/F

Grid Ref:356317:241241

Proposed development:

SITE: Mill Cottage, Bartestree, Hereford, HR1 4BA
DESCRIPTION: Proposed development to form 2 flats and a chip shop

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 and the National Planning Policy Framework.

- 2 The development shall be carried out strictly in accordance with the approved plans (drawing nos. MC1, MC2, MC3B, MC4B, MC5c), except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 3 No development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 4 The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 5 The use hereby permitted shall not be open to customers outside the hours of 1200 to 2200 Mondays to Sundays.

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan (drawing no. MC5C) have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7 Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8 Prior to the commencement of development, a scheme of noise and odour control that demonstrates that the proposed extraction equipment can operate within the specification identified by the Noise Assessment report AAW/MAT15041 and that meets the requirements set by DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (including terminal height as this which affects the effectiveness of discharge and also fine filtration or electrostatic precipitation prior to the ozone treatment) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be installed prior to the first use of the takeaway use hereby approved and shall be retained in perpetuity.

Reason: To protect the amenities of occupiers of nearby properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10 Prior to the commencement of development a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of amenity and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11 The recommendations set out in the ecologist's report dated 3 July 2014 should be followed in relation to the identified protected species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD3 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12 Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system in accordance with policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 13 No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment in accordance with policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 14 Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment in accordance with policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 15 Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards within Policy SD3 of the Herefordshire Local Plan – Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policy SD3 of the Herefordshire Local Plan – Core Strategy and 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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
 - intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
 - intentionally take or destroy the egg of any wild bird • intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.
- The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural England and the Council's Ecologist.

3 This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Planning Services
PO Box 230,
Hereford,
HR1 2ZB



Date: 26 January 2015

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

Notes

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

The applicant is advised that additional Council Tax payments may be sought in the event that the Valuation Office, who routinely monitor decision notices, consider any part of the development hereby permitted to be self-contained. This assessment is particularly likely to be the case in respect of flats, basement conversions, granny annexes, studio rooms and log cabins and/or where the additional accommodation contains its own kitchen, bathroom and bedroom. Further information can be found on the Council's website at <https://www.herefordshire.gov.uk/search?q=annexes>

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.