

# PLANNING PERMISSION

**Applicant:**  
Mr H Roberts  
C/o Agent

**Agent:**  
Mr David Kirk  
HDP Architecture  
100 Chase Road  
Ross-on-Wye  
Herefordshire  
HR9 5JH

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Date of Application: 2 October 2013

Application No:132706/F

Grid Ref: 354087:217030

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## Proposed development:

**SITE:** Old Nurseries Site, Whitchurch, Herefordshire, HR9 6DW  
**DESCRIPTION:** Proposed development for 5 new homes

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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 one year from the date of this permission.

Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the local planning authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Authority's Planning Obligations Supplementary Planning Document (February 2008) in relation to all employment developments falling within Classes B1, B2 and B8 of the Town and Country Planning Use Classes Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.

- 2 The development shall be carried out strictly in accordance with the approved plans:

- Proposed Site Layout – Drawing number 341-PL05 Revision A received on 8 May 2014
- Site Location Plan – Drawing number 341-PL04 received 1 October 2013
- Plans & Elevations for House upon Plot 1 – Drawing number 341-PL01 received 1 October 2013
- Plans & Elevations for House upon Plot 2 – Drawing number 341-PL02 received 1 October 2013
- Plans & Elevations for dwellings on Plots 3, 4 and 5 – Drawing number 341 – PL03 received 21 October 2013
- Site Sections / Levels – Drawing number 341 – PL06 received 1 October 2013 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 DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

3 Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full written details of all external materials (including windows, doors and rainwater goods) including details of colour.
- Full details (i.e. location, design and appearance) of all means of enclosure (i.e. gates, walls, fencing or other means of enclosure).
- Full details of the surfacing material to be used upon the vehicular means of access, private drive and vehicle turning / manoeuvring and parking areas.
- Full details of the "green / brown living roof".

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and thereafter maintained as such.

Reason: To ensure a satisfactory appearance to the development within the landscape in accordance with Policies DR1 and LA1 of the Herefordshire Unitary Development Plan 2007.

4 Other than the development permitted by this permission including any detail permitted pursuant to condition 3) above, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no development normally permitted by Classes A, B, C, D, E and F of Part 1 and Classes A and C of Part 2 of Article 3 shall be carried out without the express consent of the Local Planning Authority.

Reason: To prevent an overdevelopment of the site and to ensure that the development is appropriate to its sensitive location within the Wye Valley Area of Outstanding Natural Beauty, in accordance with Policies DR1 and LA1 of the Herefordshire Unitary Development Plan 2007.

5 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping using primarily indigenous species. The submitted scheme of landscaping must detail the location of all planting, the species, their size and the density of planting.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with Policies LA1 and LA6 of the Herefordshire Unitary Development Plan 2007.

6 All planting, seeding and turfing in the approved details of landscaping pursuant to condition 5) above shall be carried out in the first planting and seeding seasons following the first occupation of the development hereby permitted or completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with Policies LA1 and LA6 of the Herefordshire Unitary Development Plan 2007.

7 The initial first 5 metres of the vehicular access off the public highway shall not exceed a gradient of 1:12. All subsequent parts of the internal access road / private driveway shall not exceed a gradient of 1:8.

Reason: In the interests of highway safety.

8 Prior to the first use of the development hereby permitted or first occupation of any of the dwellinghouses hereby permitted visibility splays of 2.4 metres x 160 metres in both directions shall be provided and kept free of obstruction above a height of 0.6 metres and thereafter maintained as such.

Reason: In the interests of highway safety.

9 Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

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 T11 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

10 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan 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 T11 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

11 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 DR3 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

12 All roadworks shall be completed within a period of 2 years, or other period agreed in writing with the local planning authority, from the commencement of work on the site. This will entail the making good of surfacing, grassing and landscaping in accordance with a specification submitted to and approved in writing by the local planning authority. (Nothing in this condition shall conflict with any phasing scheme, in which respect it will be interpreted as applying to the particular phase being implemented).

Reason: In the interests of highway safety and convenience and a well co-ordinated development and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

13 Construction work shall not begin until a scheme for protecting each of the five dwellinghouses hereby permitted from road traffic noise has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the dwellinghouses are occupied. Such a scheme must have regard to the advice provided by the World Health Organisation Guidance on neighbourhood noise and BS8233:1999 (design criteria for internal sound pressure levels within residential properties) as to a reasonable standard for both inside and outside amenity areas of homes.

Reason: To ensure a satisfactory level of quietude for the occupiers of the dwellinghouses in accordance with Policy DR13 of the Herefordshire Unitary Development Plan 2007.

14 None of the dwellinghouses hereby permitted shall be occupied until the scheme of noise attenuation approved pursuant to condition 13) above has been fully implemented, and thereafter maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure a satisfactory level of quietude for the occupiers of the dwellinghouses in accordance with Policy DR13 of the Herefordshire Unitary Development Plan 2007.

15 No development shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:-

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid from contaminants / or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on-site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Reason: To safeguard human health in accordance with Policy DR10 of the Herefordshire Unitary Development Plan 2007.

16 The Remediation Scheme, as approved pursuant to condition number 15 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: To safeguard human health in accordance with Policy DR10 of the Herefordshire Unitary Development Plan 2007.

- 17 There shall be no external lighting on the site (including attached to any building) without the express consent of the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside hereabouts that is designated as an Area of Outstanding Natural Beauty, in accordance with Policies LA1 and DR14 of the Herefordshire Unitary Development Plan 2007.

**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 The landscaping details required by way of condition 5) are required as the site layout has been amended since the landscaping plan was prepared.
- 3 Technical notes about the conditions 15) and 16):-
  - a) the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012; and
  - b) The Local Planning Authority require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

Planning Services  
PO Box 230  
Hereford  
HR1 2ZB



**Date: 27 May 2014**

**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.

**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.