

# OUTLINE PLANNING PERMISSION

**Applicant:**  
Mr Byard  
8 Townsend Park  
Luston  
Leominster  
HR6 0DZ

**Agent:**  
Mr Paul Titley  
Paul Titley  
New Cottage  
Eyton  
Leominster  
HR6 0AQ

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Date of Application: 16 April 2018

Application No:  
181423

Grid Ref:347607:265728

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## Proposed development:

**SITE:** Land at Leys Lane, Bircher, Herefordshire,  
**DESCRIPTION:** Site for proposed erection of two detached dwellings, one partly incorporating existing barns.

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THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that OUTLINE 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 either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 2 Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 3 Before any demolition, disturbance or work to the existing barn on the site occurs in line with the preliminary ecology report by Focus Ecology (dated June 2018) full Optimal Period bat survey(s) shall be undertaken and the final report including Ecological Working Method Statement (Bats) and any revised drawings and building plans showing proposed mitigation and compensation features shall be supplied to the planning authority for written approval. The approved report and designs along with an appropriate European Protected Species Licence shall be implemented in full and hereafter maintained, unless otherwise agreed in writing by this planning authority, and as relevant Natural England.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

- 4 The Biodiversity enhancement features (in addition to any bat mitigation required through a Protected Species Licence) as recommended in the ecology report by Focus Ecology dated June 2018 shall be implemented in full as stated and hereafter maintained, unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

- 5 Prior to the commencement of development, a detailed plan, showing the levels of the existing site, the proposed slab levels of the building dwellings approved and a datum point outside of the site, shall be submitted to and be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6 Prior to the first occupation of the dwellings hereby approved the driveways and/or vehicular turning areas shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works.

Reason: 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.

- 7 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 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 MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities 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.

- 9 Prior to the commencement of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the dwellings hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10 None of the existing trees and/or hedgerows on the site shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11 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.

#### 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 applicant is reminded that although the barns on site may not be classed as 'optimal' bat roosting habitat there is increasing local and national evidence of bats, being highly mobile and opportunistic species, utilising 'sub-optimal habitats such as 'modern' and metal agricultural buildings and barns as roosts and this should be considered within the required ecological survey.
- 3 The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to each of the new buildings as well as consideration for amphibian/reptile refugia, unrestricted hedgehog movement and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies Initiative.

- 4 The proposed plans submitted at reserved matters stage should have particular regard to preserving and enhancing the setting of The Thatch, the Grade II listed building found to the west of the site. The Local Planning Authority would advise use of its pre-application advice service in respect of any future application.
- 5 The applicant should refer to the representation received from Transportation and as part of the proposed plans submitted at reserved matters stage, plans should include visibility splays from a point 2.4 metres back from the carriageway and for the maximum visibility achievable. If this cannot be achieved, then a revision to access arrangements is expected to accommodate both dwellings.

Planning Services  
PO Box 4,  
Hereford,  
HR4 0XH



**ANDREW BANKS**  
**DEVELOPMENT MANAGER**

Date: 22 November 2018

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

**Please note: 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.**

#### 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.