

Town & Country Planning Act 1990

NOTIFICATION OF REFUSAL of Outline Planning

Application Reference Number: 16/07288/OUT

Agent Terence O'Rourke Limited Everdene House Deansleigh Road Bournemouth BH7 7DU	Applicant Mr Jackson C/O Agent
Particulars of Development: Outline planning application (all matters reserved except means of access) for residential development, including the construction of up to 71 dwellings, the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure.	
At: Land South of Filands Malmesbury Wiltshire	

In pursuance of their powers under the above Act, the Council hereby REFUSE TO GRANT PERMISSION for the development referred to in the above application and plans submitted by you, for the following reason(s):

- 1 The proposal is outside of the framework boundary for Malmesbury and has not been allocated for residential development within the Wiltshire Core Strategy (January 2015) or Malmesbury Neighbourhood Plan (February 2015). The development fails to meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy and would result in harm to the harm to the character and appearance of the locality. Therefore, the proposal is contrary to Core Policies 1, 2, 13, 51 & 57 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan, the Malmesbury Neighbourhood Plan and paragraphs 14, 17, 55 & 198 of the NPPF. As such, the proposal fails to promote a sustainable pattern of development and is contrary to the aforementioned local and national policies.
- 2 The proposed development does not make any provisions for securing affordable

housing on the site; financial contributions towards primary and secondary school provision, public rights of way; the on-going provision and maintenance of open space and waste facilities. The application is therefore contrary to Core Policies 3, 43, 45 and Saved Policy CF3 of the Wiltshire Core Strategy.

3 **INFORMATIVE TO APPLICANT:**

You are advised that the application has been determined based on the following plans:

Site Location Plan - BMD.15.019.DR.P001 - Received 26th July 2016;

Site Access Plan - ITB11080-GA-004 Rev B - Received 26th July 2016;

Proposed Pedestrian and Cycle Access - ITB11080-GA-007 - Received 6th October 2016;

Parameter Plan - BMD.15.019.DR.P003 Rev A - Received 6th October 2016;

Illustrative Masterplan - BMD.15.019.DR.P002 Rev A - Received 6th October 2016.

Illustrative Masterplan - Housing Mix - BMD.15.019.DR.P002.2 Rev A - Received 6th October 2016.

In accordance with paragraph 187 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

Signed



Director for Economic Development & Planning

Dated: 25 October 2016

REFUSAL OF PERMISSION FOR DEVELOPMENT

If the applicant wishes to have an explanation of the reasons for this decision, it will be given on request and a meeting arranged if necessary.

1. Appeals

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, he/she may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act, 1990. Appeals must be made on a form which is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, (Telephone 0117 372 6372). Alternatively forms can be downloaded from the web site: www.planning-inspectorate.gov.uk or accessed via the Planning Portal: <http://www.planningportal.gov.uk/planning/appeals>. Changes introduced by the Government in April 2009 mean that an appeal relating to the refusal of a stand-alone application for householder development (such as an alteration/extension to a house; or a garage or other outbuilding proposed within the garden) must be made within 12 weeks of the date of the refusal. All other appeals, including householder appeals for extensions to listed buildings that are accompanied by an appeal against a refusal of listed building consent must be made within 6 months of the date of the refusal. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted by the Local Planning Authority, having regard to the Statutory requirements, to the provisions of the Development Order, and to any Directions given under the Order. A copy of the appeal documents should be sent direct to the Council using the following email address: planningappeals@wiltshire.gov.uk.

Appeal where an enforcement notice has been issued

Article 33 (2) (b) & (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010, provides that a shorter time limit to appeal to the Secretary of State shall apply where an enforcement notice has been served, as follows:-

'Type A appeal', 28 days from— the date of the notice of the decision or determination giving rise to the appeal; or expiry of the specified period;

'Type B appeal', 28 days from the date on which the enforcement notice is served;

['Type A appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) was served no earlier than 2 years before the application is made;

(b) was served before— (i) the date of the notice of the decision or determination giving rise to the appeal; or (ii) the expiry of the specified period; and

(c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b);

'Type B appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the appeal, or (ii) the expiry of the specified period;

(b) is served earlier than 28 days before the expiry of the time limit specified— (i) in the case of a householder appeal, in paragraph (2)(a) of the Order; or (ii) in any other case, in paragraph (2)(d) of the Order; and

(c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.]

2. Purchase Notices

If permission to develop land is refused, whether by the Local Planning Authority or the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been, or would be, permitted, he may serve on the District Council in which the land is situated a Purchase Notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act, 1990.

3. Compensation

In certain circumstances a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act, 1990.