

Town & Country Planning Act 1990

**NOTIFICATION OF REFUSAL of Full Planning**

Application Reference Number: 17/08735/FUL

<b>Agent</b> Mark Doodes Planning Unit 1, Wicklesham Business Park Faringdon Oxfordshire SN7 7BU	<b>Applicant</b> Mr & Mrs Kershaw Care of Agent
<b>Particulars of Development: Provision of new public open space, footpath, play area, nine homes (4 Affordable Units) and associated infrastructure.</b>	
<b>At: Land at Church Place Lydiard Millicent Swindon Wiltshire SN5 3LR</b>	

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 Being situated outside of any defined settlement boundary and not being considered to constitute infill development within Small Villages as defined by Core Policy 2, the proposal amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Core Policies 2, 19 and 48 of the adopted Wiltshire Core Strategy 2015, Saved Local Plan Policy H4 of the North Wiltshire Local Plan 2011 and paragraph 55 of the NPPF.
- 2 The proposal site, being located remote from a range of services, employment opportunities and being not well served by public transport, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. In addition, the proposed vehicle access is considered harmful to highway safety and an acceptable parking layout and swept path analysis for refuse and emergency vehicles has not been adequately demonstrated. Therefore, the proposal is contrary to and Core Policies 57(xiv), 60 and 61 of the adopted Wiltshire Core Strategy 2015 and paragraphs 32

and 35 of the NPPF.

- 3 The proposal is considered to result in harm to the setting of the Grade II\* Listed Church and character and appearance of the Lydiard Millicent Conservation Area. The identified harm is regarded as less than substantial, but is not outweighed by any public benefit. In addition, it has not been suitably demonstrated that archaeological remains within the proposal site will not be unduly disturbed. Therefore the proposal is contrary to, paragraphs 17(10), 128, 131, 132, 134, 135 and 137 of the NPPF, Core Policies 57 (i, iv) and 58 (iii, iv) of the adopted Wiltshire Core Strategy 2015 and Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 4 By way of its elevation design, bulk, massing and layout, the proposal is not considered to be of a high quality design as it does not relate positively with the existing pattern of development or local vernacular and it's siting would encroach into the open countryside failing to effectively integrate the development into its immediate setting and wider character of the area. The proposal is therefore considered contrary to the requirements of Core Policy 57 (i, iii, and vi) of the adopted Wiltshire Core Strategy 2015 and paragraphs 2, 7, 11, 14, 17, 58 & 196 of the NPPF
- 5 The proposed loss of TPO 16 Trees is considered detrimental to the visual amenity of the street scene and character and appearance of the Lydiard Millicent Conservation Area contrary to Core Policies 57 (ii) and 58 of the adopted Wiltshire Core Strategy 2015, Saved Local Plan Policy NE14 of the North Wiltshire Local Plan 2011 and paragraph 118 of the NPPF
- 6 It is not considered that the ecological mitigation as recommended in The Preliminary Ecological Appraisal (Smart Ecology Ltd dated 13/07/2017) has been demonstrated and incorporated into the scheme proposed within the proposed plans meaning the development is contrary to Core Policy 50 and Section 11 of the NPPF.
- 7 The application fails to provide and/or secure any mechanism to ensure that the provision of essential infrastructure, services and amenities made necessary by the development being affordable housing, open space/recreation areas and waste collection can be delivered. This is contrary to Core Policies 3 and 43 of the adopted Wiltshire Core Strategy 2015.
- 8 **INFORMATIVE TO APPLICANT:**  
  
Reason for Refusal 7 may be overcome in the event of the applicant completing an appropriate planning obligation. The reason for refusal is necessary in the event that there is an appeal and such an obligation is not completed or not satisfactorily completed.

**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**

A handwritten signature in black ink, appearing to read "Alan Cummins". The signature is fluid and cursive, with a long horizontal stroke at the end.

**Director for Economic Development & Planning**

**Dated: 12 February 2018**

## 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](http://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](mailto: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.