

# PLANNING PERMISSION

**Applicant:**

Miss Sophie Cowling  
The Herefordshire Wildlife Trust  
Lower House Farm  
Hereford  
Herefordshire  
HR1 1UT

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Date of Application: 19 December 2018    Application No: 182236

Grid Ref:  
352392:251078

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**Proposed development:**

**SITE:**                            **Bodenham Lake Nature Reserve, Bodenham, Herefordshire,**  
**DESCRIPTION:**            **Proposed re-profiling works to include: Southern land spit at the eastern end of the lake to be lowered and divided into three islands. Small island close to bird hide on the southern side of the lake will be cleared of trees, lowered and divided into three smaller islands. The southern half of the western island will be re-profiled and the material used to create a second small adjacent island.**

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THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts and Regulation that PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application, 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.

2            The development shall be carried out strictly in accordance with the approved plans (Location Plan received on the 10/12/2018, block Plan and Reprofiling Plans received on the 7/12/2018), 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            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 7.00am-6.00pm, Saturday 8.00am-1.00pm 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.

- 4 The Method of Work and Environmental Risk Management by Frog Environmental dated September 2016 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), Wildlife & Countryside Act (1981 as amended) and Core Strategy (2015) policy LD2.

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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 Bodenham Lake and adjacent River Lugg (SAC) are recognised for their importance for biodiversity, protected species and ecological habitat and we would like to formally remind the applicant that they have a legal duty to ensure compliance with all relevant legislation and best working practices such as CDM, Health & Safety, Wildlife & Countryside Act, Habitat Regulations et al, at all times during the project and construction.
- 3 In addition to planning permission, the works may require a Flood Risk Activities permit under the Environmental Permitting Regulations (EPR) where works may act to affect a Main River or its floodplain. The applicant is advised to contact the Environment agency direct for clarification.

Planning Services  
PO Box 4  
Hereford

HR4 0XH

Date: 12 April 2019



**KEVIN BISHOP**  
**LEAD DEVELOPMENT MANAGER**

## 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.