

11 DCNW2007/0972/F - PROPOSED CHANGE OF USE FROM RESIDENTIAL OUTBUILDING FOR BUSINESS USE (OUTSIDE CATERING FOR A TEMPORARY PERIOD OF TWO YEARS) AT THE RED HOUSE, DILWYN, HEREFORD, HEREFORDSHIRE, HR4 8JS

For: Mr Bailey

Date Received:
26th March 2007

Ward:
Golden Cross with
Weobley

Grid Ref:
41684, 54674

Expiry Date:
21st May 2007

Local Member: Councillor JHR Goodwin

1. Site Description and Proposal

- 1.1 The application site lies in the centre of the village of Dilwyn, opposite the village hall. The site is within the village settlement boundary (identified as a Main Village in the Herefordshire Unitary Development Plan) and Conservation Area. The building that is the subject of the change of use is a traditional brick and timber clad barn / outbuilding with a slate roof. The building's gable end fronts the main highway whilst the front of the building faces into the driveway and garden of the associated dwelling, The Red House. Parking lies to the front of the dwelling and building with access along an existing path to the rear of the site where there is also the opportunity to park.
- 1.2 The proposal is for the continued use of the building for the purpose of running an outside catering business. It is understood that this involves the preparation of food, although the majority of cooking takes place off site. The business has been operating for a period of approximately 18 months from these premises. Internally the building provides two kitchens, an office and w.c at ground floor with storage space for the business and domestic use at first floor. There are no external alterations to the building proposed.

2. Policies

2.1 Herefordshire Unitary Development Plan (2007)

S1 – Sustainable Development
S4 - Employment
DR2 – Land Use and Activity
DR13 – Noise
E9 – Home Based Businesses
E10 – Employment Proposals Within Or Adjacent To Main Villages
HBA6 – New development within Conservation Areas
HBA12 – Re-use of Rural Buildings

3. Planning History

NW2000/0416/F – Erection of 2 houses, 1 dormer bungalow, conversion of existing barns into 3 dwellings and alteration works to existing 'new house' – Approved 26th May 2000

4. Consultation Summary

Statutory Consultations

4.1 None required

Internal Council Advice

4.2 Transportation Manager comments that there is adequate Parking and that access is reasonable

4.3 The Conservation Manager:
As this is an amenity rather than conservation issue, accordingly I would not wish to make a recommendation.

4.4 Head of Environmental Health and Trading Standards comments as follows:

'I visited the above site on 30/4/2007 and was advised by the applicant that the business has been in operation from this location for approximately 18 months, although I am aware that the Planning department has received objections to this proposed use, the Environmental Health department has not received any complaints regarding activities from the site during this time.

My main concerns from a application of this nature is the likelihood that business activities give rise to increased levels of noise and odour emissions. I have been advised that presently the activities carried out are mainly the preparation of food stuffs with the majority of cooking taking place off site. Currently the extraction at the premises is minimal and domestic in nature and for this reason I would advise that a restriction be placed upon the use of deep fat frying equipment on site to ensure nearby residents do not suffer from odour nuisance. Should further extraction/ventilation units be required at a later date, these would need to be approved by the planning department to ensure that the noise and odour impact is minimal.

I would raise concerns that due to the layout and design of the entrance and the close proximity of residential accommodation to the site, there is a potential for complaints to be received regarding noise from vehicles entering and exiting the site. I would therefore recommend that conditions restricting the hours of work that may take place and the hours of delivery permissible be placed on any permission that may be granted. I have been advised that changes are planned to alter the entrance to the site and improve access, however this has not been detailed in this application.

I would also raise concerns regarding the use of refrigerated vehicles to the rear of the premises during the evening and early hours of the morning, this has the potential to give rise to noise complaints, particularly when more than one vehicle is in operation. However, the Council has powers to investigate noise nuisance under the Environmental protection Act 1990 and can deal with any complaints received under this legislation.

As the type of cooking undertaken, the level of usage and the management of a business such as this greatly affects the likely noise and odour emissions, I believe a temporary permission would be advisable in order that further consideration can be made to both the noise and odour once the business is fully operational. Although there is the potential for complaints to be received, I am satisfied that with suitable conditions attached to the permission, the business can operate without detriment to the amenity of the area.

Should Members be minded to approve the proposal I would recommend the following conditions be attached to the permission; see recommendation conditions 1 – 8.

5. Representations

5.1 Dilwyn Parish Council make the following observations:

Dilwyn Parish Council would wish to oppose this application on the general grounds that running a business on this site, in a Conservation Area, is quite inappropriate.

Detailed objections are as follows and are based on the experience of at least the last six months:

- Vehicle access is via a shared drive.
- Large and numerous vehicles have been coming and going in the near vicinity of the village school and playgroup.
- Vehicles have been illegally parked on the village hall car park.
- Refrigerator vehicles have been running for many hours at a time, including the early hours of the morning, with significant noise pollution.
- There have been, on frequent occasions, significant cooking odours.
- This usage clearly infringes the planning permission originally granted for the building in question and also the enforcement order served earlier and should, therefore, cease forthwith.

5.2 4 letters of objection have been received from C P and M Jennings, 5 Walnut Tree Close and Ms J Greasley and Ms J Goode, Mews Cottage, 2 Walnut Tree Close, Mr & Mrs Jones, 2 The Glebelands, Dilwyn and Mrs Val Key, 1 The Glebelands, Dilwyn who raise the following issues:

- For the past two years they have experienced periods of disruption in the form of refrigerated vehicles running throughout the days and night causing noise disturbance
- The dwellings face the side of the property where the refrigerated vans park
- Vehicles and trucks delivering goods congest the lane outside of the property
- Disturbance from early morning activities at 5am preparing and unloading vehicles
- Misuse of village hall car park - employees parking at the premises
- Increased vehicles activity would have highway safety issues due to proximity of school and busy hall (clubs etc)
- Not a suitable use in a Conservation Area
- There would be an increase in traffic - workers, deliveries, event transport,
- Access across Walnut Tree Close would no longer be for 'reasonable purposes'
- Parking problems

- Cooking smells
- 5.3 One letter of support has been received from Erica Creer, The White House, Dilwyn states that the activity has not caused her any inconvenience and she lives within 50 m and that life in the village would be poorer but for the small businesses supporting young families, mostly bases in the proprietors homes or, in this case, in a barn within the boundary of the applicants home.
- 5.4 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.
- 6. Officers Appraisal**
- 6.1 Policy E10 (Employment Proposals within of adjacent to main villages) of the Herefordshire Unitary Development Plan (2007) states:
- Proposals for employment generating uses within of adjacent to the main villages identified in policy H4 will be permitted providing that the proposals are in keeping with the character of the settlement and that the level of development can be clearly related to the employment needs of the local economy.*
- 6.2 In addition to this Policy E9 (Home based Businesses) of the UDP (2007) states:
- Proposals to allow a small business to operate from home will be permitted where:
1. The business operation will not lead to adverse impact on residential amenity or the character of the area through its scale, nature of operation, access and parking provision, noise or traffic generated including visitors, staff and deliveries: and
 2. The appearance of the building is not materially altered and on the cessation of the business can revert to its previous use.
- 6.3 In considering these policies in relation to the proposal it indicates that whilst there is broadly support for businesses within the main villages it is the impact that the use would have that needs to be given careful thought and assessment. In this instance I would refer to the assessment of the proposed (albeit existing) use by the Council's Environmental Health Officer above.
- 6.4 The business has been operating without permission or controls imposed upon the areas which have caused grievance to neighbours, in particular the deliveries and use of refrigerated vehicles. It is considered that if the business was conducted within the limitations placed on it through the use of the appropriate conditions then this would alleviate the objections and concerns relating to the adverse impact that the business would have on the neighbouring properties and comply with the policies detailed above. If the business cannot operate within these restrictions then the location for such a business is inappropriate and premises in a more suitable location (industrial estate) should be sought.
- 6.5 The size and scale of the business is considered to be acceptable at this time. However, it is not possible to predict or control its growth. As such, although the applicant has applied for a two year temporary consent, a one year temporary consent is suggested I light of the objections received. This would enable further consideration of the use in respect of noise, disturbance and odour within this period.

This would also allow the applicant time to consider new premises from which to operate his business whilst affording protection to the neighbours.

- 6.6 In addition to the above consideration has also been given to the character of the Conservation Area. As the building has no external changes and the movements are not significant. There is no direct impact on the character and appearance of the Conservation Area and as such the proposal is considered to accord with Policy HBA6 and guidance contained within PPG15 – planning and the historic environment.
- 6.7 Concern has also been raised regarding the parking of staff cars. The application details two current spaces and proposes that 6 will be made available. It is therefore proposed that a condition requiring a plan showing these spaces is provided within one month of the date of this permission, and that the spaces are made available for the life of the permission within 2 months of the grant of Approval

RECOMMENDATION

That planning permission be approved subject to the following conditions:

- 1 - E01 (Restriction on hours of working)**

Reason: To safeguard the amenities of the locality.

- 2 - E02 (Restriction on hours of delivery)**

Reason: To safeguard the amenities of the locality.

- 3 - E06 (Restriction on Use)**

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity.

- 4 - E15 (Restriction on separate sale)**

Reason: It would be contrary to the policy of the local planning authority to grant consent for a separate dwelling in this location.

- 5 - E25 (Personal and time limited permission) Mr S Bailey, one year**

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances.

- 6 - F03 (Restriction on specified activities)**

Reason: To protect the amenities of nearby properties.

- 7 - F38 (Details of flues or extractors)**

Reason: In the interests of the amenity of the area.

- 8 - F40 (No burning of material/substances)**

Reason: To safeguard residential amenity and prevent pollution.

- 9 - **Within one month of the date of this permission, a plan detailing the existing and proposed car parking spaces within the application site shall be submitted to and approved in writing by the local planning authority. These spaces shall be provided within 2 months of the date of this permission and kept free for the parking of vehicles only until the expiry of the permission.**

Reason: To ensure the provision of car parking provision for staff and delivery vehicles within the application site in the interests of highway safety.

Informatives:

- 1 - **N15 - Reason(s) for the Grant of PP/LBC/CAC**

- 2 - **N19 - Avoidance of doubt**

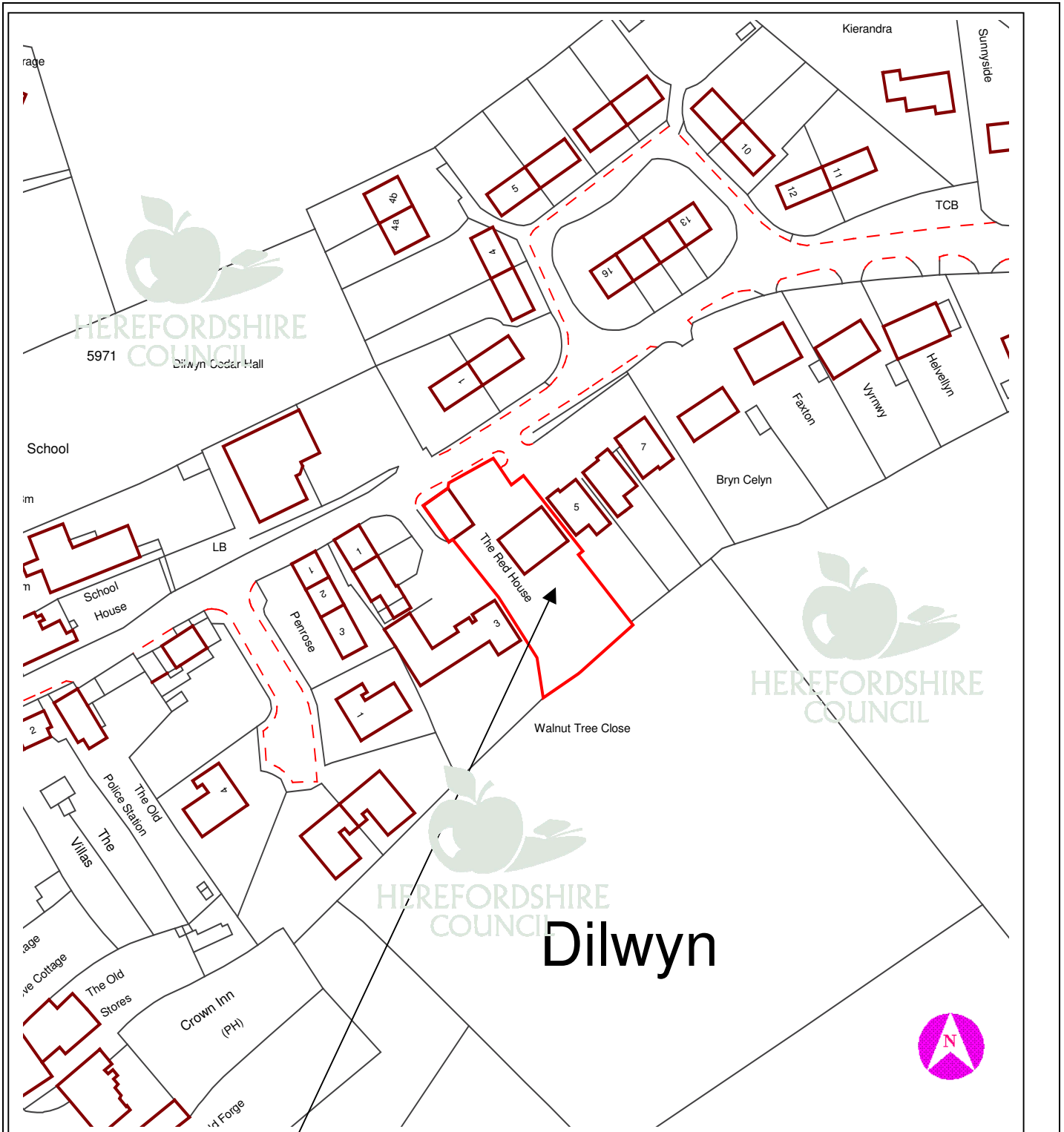
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2007/0972/F

SCALE : 1 : 1250

SITE ADDRESS : The Red House, Dilwyn, Hereford, Herefordshire, HR4 8JS

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