

**12 DCCE2008/2816/F - CONTINUATION OF USE OF YARD AT 10 KYRLE STREET FOR THE STORAGE, MOVEMENT AND OPERATION OF 4 MOBILE COFFEE CARTS, 1 FREEZER CART, 1 FRIDGE CART AND 4 NON HGV ASSOCIATED SUPPORT VEHICLES. 10 KYRLE STREET, HEREFORD, HEREFORDSHIRE, HR1 2ET**

**For: Mr. Gardner, CGMS Limited, Burlington House, Lypiatt Road, Cheltenham, GL50 2SY**

**Date Received: 17 November 2008      Ward: Central      Grid Ref: 51445, 40094**

**Expiry Date: 12 January 2009**

Local Member: Councillor MAF Hubbard

**1. Site Description and Proposal**

- 1.1 The application site is within the curtilage of 10 Kyrle Street, Hereford, which is a semi-detached residential property owned and occupied by Mr. & Mrs. H. Gardner. Their son, James Gardner, owns the Coffee Cart Co, which has operated from the site for just over nine years. The Company specialises in the provision of continental style, mobile cappuccino bars, primarily to permanently licensed sites in pedestrianised town centres and shopping malls. Over the years the company have become a permanent fixture to Hereford High Town.
- 1.2 Activities on the site originally commenced following planning permission granted by virtue of application CE1999/2467/F which allows an area of the hard standing for a mixed residential/commercial parking use and the use of existing residential sheds for conducting a sign writing business. A subsequent application, DCCE2003/0405/F, secured permission to vary this permission to allow for storage of four coffee bar trailers and one swing boat trailer as opposed to the previous arrangement which allowed for two coffee bar trailers and one swing boat trailer.
- 1.3 In 2006 the applicants then applied to vary the conditions attached to application DCCE2003/0405/F to permit storage of 4 mobile coffee carts, 1 freezer cart, 1 fridge cart and 4 non HGV associated vehicles. Permission was granted on the 25 September 2006. However a condition was attached stating that the 'consent shall expire on the 25 September 2007, unless further consent is granted in writing by the local planning authority'. A subsequent application, DCCE2006/3614/F, secured permission until the 17 January 2009, with an additional permission to allow for the movement of one cart and associated support vehicle in the yard, and into and out of the yard between 6.00am and 10.00pm.
- 1.4 The site contains an enclosed yard of 219sqm which is secured behind large wooden double gates and a single pedestrian gate which fronts onto Kyrle Street. The yard provides a level, tarmac surface with electric hook-up points for the use of carts and vehicles, with storage shed and covered car port sited along its eastern boundary.

Immediately to the south of the site are two tyre businesses and hairdresser. To the north and west a mix of residential and commercial uses are found fronting onto Kyrle Street. Immediately opposite the access to the site is a driveway, which serves properties and businesses which front onto Commercial Road. The neighbouring property, 12 Kyrle Street operates as a stonemasons yard and is of similar scale.

- 1.5 The development hereby proposed by this application seeks to continue the current permission to use of the yard at 10 Kyrle Street by the Coffee Cart Co. The key issue addressed by this application is to replace a temporary nature of the most recent consents, and their relationship with older permissions, with a new single, permanent, all encompassing planning permission. Therefore, the application proposal seeks continuation of use of the yard for the storage, movement and operation of 4 coffee carts, 1 fridge cart, 1 freezer cart and 4 non-HGV support vehicles. It should be noted also that the application proposes the same operational hours restrictions as currently apply to the use of the yard by The Coffee Cart Co.

## **2. Policies**

- 2.1 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S2	-	Development requirements
DR2	-	Land use and activity
DR13	-	Noise
E7	-	Other employment proposals within and around Hereford and the market towns
E8	-	Design standards for employment sites
E9	-	Home based businesses

## **3. Planning History**

- 3.1 CE1999/2467/F - New hard standing for both residential and commercial (non-HGV) parking to include a 16ft trailer mounted set of swingboats. Use of existing residential shed for conducting family sign writing business. Approved 19 January 2000.
- 3.2 DCCE2003/0405/F - Retention of existing sheds and variation of Condition 2 of planning permission CE1999/2476/F to permit storage of mobile coffee bars and trailer mounted swing boats. Approved 11 June 2003.
- 3.3 DCCE2006/2424/F - Variation of Conditions 1 and 2 of planning permission DCCE2003/0405/F to permit the storage of 4 mobile coffee carts, 1 freezer cart, 1 fridge cart, and 4 non-HGV support vehicles. Approved 25 September 2006.
- 3.4 DCCE2006/3614/F - Variation of Condition 4 of planning consent DCCE2006/2424/F to permit movement of one cart and associated support vehicle in the yard, and into and out of the yard between 6.00am and 10.00pm. Approved with conditions on 17 January 2007.

## **4. Consultation Summary**

### Statutory Consultations

- 4.1 None.

Internal Council Advice

4.2 Environmental Health Manager: No response.

4.3 Traffic Manager: No objections.

**5. Representations**

5.1 Hereford City Council: No objection.

5.2 Local Residents:

5.2.1 Support:- The applicant has undertaken an element of local consultation on the development proposal and has submitted a letter signed by 5 local residents on Kyrle Street and Vaughan Street, which states that 'as a neighbour of Mr. and Mrs. Gardner we have no objection to their application for the continuation of them using their yard for their coffee business in the same manner as they have done so for the last nine years.'

5.2.2 Objection:- A Letter of objection has been received from 67 St Guthlac Street, with a further letter of objection has also been received on behalf of number 12 Kyrle Street. The comments of the two letters can be summarised as follows:

1. Over intensification of the site - It is not believed that other sites have been considered, and with the applicant and his parents occupying 10 Kyrle Street, and the business now using 26 Vaughan Street, the traffic and intrusive nature of the business results in over intensification of the site compared with the long established adjoining residential occupancy.
2. Noise disturbance - The out of hours operation of the business which causes staff movement, traffic and noise to be generated at the property 7 days a week has an adverse impact on the residential amenity of the occupiers of 12 Kyrle Street and surrounding residential properties.
3. Traffic Movement - The location is in a quiet area which is primarily residential and located some distance from main roads.

5.3 A letter has been received from the applicants agent in response to the neighbours concern. The comments of the letter can be summarised as follows;

1. Over intensification of the site – By moving the administrative functions of the Coffee Cart Co to 26 Vaughan Street the applicant has actually reduced the 'intensity' of business activity (such as visitors on business matters) at the application site. The location of the administrative functions of the Coffee Cart Co at 26 Vaughan Street does not constitute intensification of business use in the wider Kyrle Street / Vaughan Street locality, as if the Coffee Cart Co did not occupy 26 Vaughan Street, another business most likely would.
2. Noise levels outside of normal working hours - The applicant accepts there is a right to complain, though also understands that the need to safeguard residential amenity is the very reason why conditions relating to operational hours for the use of the yard at 10 Kyrle Street have been attached to previous planning consents. Such conditions have been accepted by the applicant.

5.4 The full text of these letters can be inspected at Central Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## **6. Officer's Appraisal**

6.1 The existing permission that was granted under application DCCE2006/3614/F was for a temporary period to enable the local planning authority to give further consideration to the acceptability of the proposed use after the temporary period had expired.

6.2 A mixture of residential properties and small business uses surround the application site. Of particular note is the two tyre business to the south of the site. Both Policy E9 and Policy E7 of the Herefordshire Unitary Development Plan contain relevant criteria to be considered in this application. The policies require proposals not to lead to adverse impacts 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. The applicant has stressed in the supporting statement that this application does not propose to change or increase the existing permission. Having traded from the site for the last 9 years, the applicant has stated that the 'company has now reached a point of consolidation', with no further business plans to expand operations from the site.

6.3 The nature of the business requires operations to commence on site early. However, during the day, there is very little activity on site. Any visitors are directed to the office on 26 Vaughan Street, which neighbours the yard. Of particular note is the operating of a coffee cart in Hereford High Town. This is in accordance with a licence from Herefordshire Council. This operation commences on site at 7am weekdays, necessitating a departure from the application site at 6am. It was on this basis in particular that in the previous application DCCE2006/3614/F the Environmental Health Manager recommended that one trailer be given more flexible hours of operation.

6.4 The Environmental Health Manager has confirmed previously that although complaints have been received regarding this business, these have not been substantiated following investigation. The applicant has submitted email correspondence from the Council's Environmental Health and Trading Standards Department to the applicant in response to a personal query. This correspondence confirms that in the two years during which the temporary permission has been running, only two complaints are on their system, which refer to no. 10 Kyrle Street. The first in March 2007, which was a complaint relating to noise and fumes from a generator at the site, which was investigated with no statutory nuisance established. The second was in October 2008 regarding light nuisance from the site. Again this was investigated with no statutory nuisance established. The applicant has confirmed that the only reason why the generator was on the site was due to a power cut, and it was only running for an hour.

6.5 It is not considered that there are sufficient grounds for refusal in respect of noise and disturbance, especially given the mixed characteristics of the surrounding area. The Traffic Manager has raised no objection to the proposal. The neighbours' concerns with staff movement, traffic and noise have been noted, however given the location of the site and the surrounding area, it is not considered that the existing operations generate staff movements, traffic and noise that adversely impact on the character of the area or the residential amenity of neighbour residential properties. It is recommended that a condition controlling times of delivery vehicles, still be attached to the permission, as well as a condition controlling the movement of coffee carts and support vehicles into and out of the yard.

6.6 On balance and given the 2-year 'trial period', the proposal is not considered to prejudice the amenity or continued use of adjoining land and buildings. Therefore it is recommended that permanent permission be granted to the Coffee Cart Co. for the use of the yard at 10 Kyrle Street for the storage, movement and operation of four mobile coffee carts, one freezer cart, one fridge cart and four non HGV associated support vehicles.

**RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. **F02 (Restriction on hours of delivery).**

**Reason: To safeguard the amenities of the locality.**

- 2. **Notwithstanding the connections of the freezer and fridge carts to a mains power supply, the coffee carts and support vehicles described in the description of development shall not be moved or operated in the yard or moved into or out of the yard before 7am or after 9pm on any day except in the case of emergency with the exception of one cart and its associated support vehicle which shall be permitted to be moved into and out of the yard between 6am and 10pm.**

**Reason: To safeguard the amenities of the locality.**

**Informatives:**

- 1. **N01 - Access for all.**
- 2. **N03 - Adjoining property rights.**
- 3. **N15 - Reason(s) for the Grant of PP/LBC/CAC.**
- 4. **N19 - Avoidance of doubt - Approved Plans.**

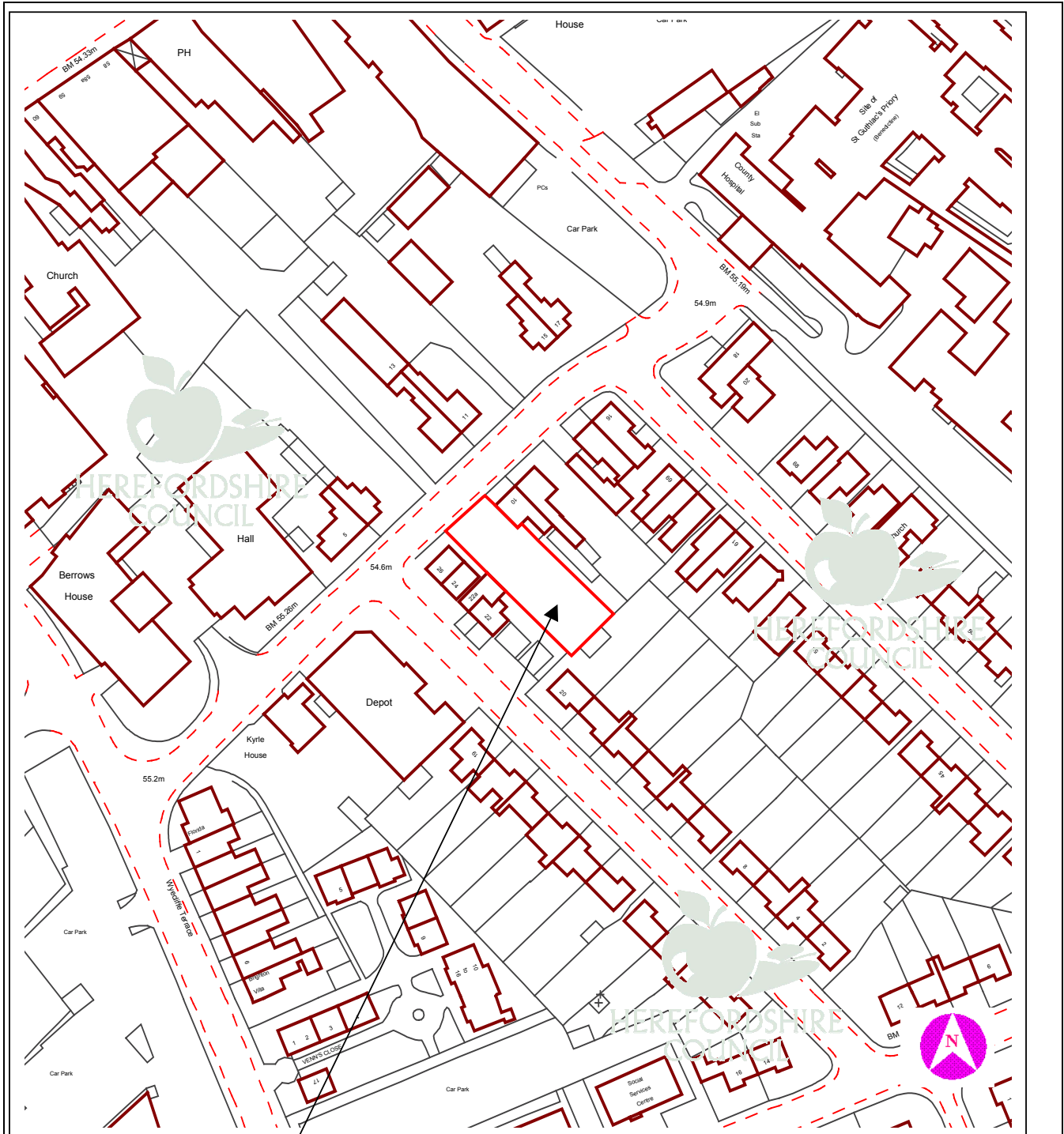
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** DCCE2008/2816/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** 10 Kyrle Street, Hereford, Herefordshire, HR1 2ET

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005