

5 DCCW2008/2781/F - DEMOLISH EXISTING PUBLIC CONVENIENCE AND REPLACE WITH THREE STOREY BUILDING, HOT FOOD TAKEWAY ON GROUND FLOOR, STORAGE ON FIRST FLOOR, STAFF LIVING ACCOMMODATION ON SECOND FLOOR AT PUBLIC CONVENIENCE, THE OVAL, BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7HG

For: Mr. J. Cheung per Paul Smith Associates, 12 Castle Street, Hereford, HR1 2NL

Date Received: 14 November 2008 Ward: Belmont Grid Ref: 50009, 38583

Expiry Date: 9 January 2009

Local Members: Councillors H Davies, PJ Edwards and GA Powell

Introduction

Members will recall that this planning application was deferred for a Committee site visit.

Investigations into the ownership and stopping up of the footpath to the rear are on-going and a verbal update will be given at the meeting. The applicant has offered to light this path in conjunction with the development of the site.

The applicant has also confirmed a willingness to commence building within 12 months, therefore the Draft Heads of Terms have been amended and the commencement period reduced to 12 months.

The previous report is reproduced below.

1. Site Description and Proposal

- 1.1 The site is located on the eastern side of The Oval, Belmont, a shopping parade with flats above. The site is presently occupied by a redundant public convenience. The proposal is to demolish the public convenience and replace with a three storey building similar in height and design to the adjoining shops and flats. The new building will contain a hot food takeaway on the ground floor, storage on the first floor and three bedroom flat on the second floor.
- 1.2 An extraction system for food smells is proposed on the rear elevation.
- 1.3 No opening times have been submitted.
- 1.4 The existing parade of shops contains general stores, post office, beauty salon, hairdressers, fish & chip shop, information centre, betting office and sandwich bar.

2. Policies

- 2.1 Herefordshire Unitary Development Plan 2007:
- DR1 - Design
 - TCR15 - Hot food takeaway outlets
 - T11 - Car parking
 - TCR13 - Local and neighbourhood shopping centres

3. Planning History

- 3.1 None.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objections.
- 4.2 Highways Agency: No objections.

Internal Council Advice

- 4.3 Traffic Manager: No objections subject to a contribution in accordance with the Supplementary Planning Document Planning Obligations.
- 4.4 Children & Young People's Manager: Confirms a need for contribution in accordance with the Supplementary Planning Document Planning Obligations.
- 4.5 CCTV Officer: Confirms a need for a contribution in accordance with the Supplementary Planning Document Planning Obligations.
- 4.6 Environmental Health Officer: No objections subject to a condition regarding approval of any proposed extract ventilation system.
- 4.7 Parks and Countryside Officer: Confirms a need for a contribution in accordance with the Supplementary Planning Document Planning Obligations.

5. Representations

- 5.1 Hereford City Council: No objections to the proposal but the City Council suggests limiting the opening hours by closing at 11.00pm Sunday to Thursday and at midnight on Friday and Saturday.
- 5.2 Herefordshire Housing: I would advise you that Herefordshire Housing Ltd, whilst appreciating the need to re-use or replace the current eyesore of the former toilet block, is concerned about and objects to this proposal as another takeaway use here could have an adverse effect on our tenants in the flats above the shops at The Oval and also on our tenants and leaseholders of the shops themselves. There are also issues of selling competing products with our shops in the vicinity, as there already a fish and chip shop and Chinese takeaway at No. 24 The Oval with which this proposal would be in direct competition, a situation which would not, I believe, have been allowed by Herefordshire Council had they still been the Lessors of these shops, as they were prior to transfer to Herefordshire Housing Ltd. To this end I enclose copies

of two relevant extracts from the lease dated 15/10/1993 of No. 24 granted by the former Hereford City Council, Clauses 3 (13) (user clause) and 4 (4) (restriction to this effect) specifically applying.

We are also concerned at the sheer scale of the proposed development, which we consider to be excessive and inappropriate, as it appears that the proposed replacement building is not only to be three storey but is also to occupy almost the full area of a restricted site, currently only occupied by a small single storey structure. Further the proposed development does nothing to address the existing problems with the alleyway (being a path forming part of the adopted public highway and not, therefore, in our ownership) between the former conveniences and the blocks forming our premises, which another tall building would only tend to exacerbate.

5.3 Two letters of objection have been received and a petition signed by 145 people. The main points raised are:

1. The use would be in direct competition to the other hot food takeaway at The Oval. Therefore putting at risk the jobs of 10 people.
2. Covenants prevent a similar use taking place.
3. The local people deserve a more varied supply of shops such as a florist, bakery or internet cafe to enhance the area.
4. The site is too small to accommodate the size of building proposed.
5. The public path to the rear would be partly enclosed.

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 This site is located within the neighbourhood shopping parade at The Oval, Belmont, Hereford. The character of the parade is shops on the ground floor with two floors of flats above. Adjoining residential property comprises three storey flats with two storey dwellings on the opposite side of Belmont Road. The proposal to create a retail premise on the ground floor with storage on the first floor and a three bedroom flat on the second floor is compatible with the adjoining built form and uses. In addition the external appearance proposed will also match.

6.2 Parking is available on the roads around the site which the Transportation Manager has confirmed as acceptable. Concerns have also been raised regarding competing uses and breach of covenant. These are matters which do not form part of the planning considerations of the proposal. Policy TCR15 of the Herefordshire Unitary Development Plan 2007 gives clear guidance and confirms that permission will be granted subject to impact on residential amenity, highway safety, amenity issues and services facilities. Adequate parking exists around the Oval complex and servicing can be obtained from the roadside.

6.3 A ventilation and extraction system is proposed on the rear of the building above the footpath that will run along the rear between the existing complex and the proposed

building. Environmental Health have confirmed no objection subject to a condition controlling the extraction and ventilation systems.

- 6.4 Finally conditions will be imposed limiting hours of opening together with litter bins and patrols. In accordance with the Council's Supplementary Planning Document Planning Obligations contributions for CCTV are included in the Draft Heads of Terms appended to the report.
- 6.5 It is therefore considered that the proposal will enhance the amenity of the area with the removal of the former public convenience and not be detrimental to highway safety or amenity of adjoining residents. It is also considered that the vitality and viability of the shopping parade will not be detrimentally impacted upon by the development. Accordingly the proposal is considered to fully comply with policies.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **A01 (Time limit for commencement (full permission)).**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. **C01 (Samples of external materials).**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.

3. **F04 (Restriction on hours of opening (restaurants and hot food takeaways)).**

Reason: To safeguard the amenities of the locality and to comply with Policy DR1 of Herefordshire Unitary Development Plan.

4. **Prior to the commencement of development, a litter management plan shall be submitted to and approved in writing by the local planning authority. The management plan should include the provision of litter bins on the premises and infrastructure relating to regular litter patrols. The approved details shall be implemented prior to the first use of the premises which shall thereafter be operated in accordance with the management plan.**

Reason: In the interest of amenity of the area and in accordance with Policy DR1.

5. **I16 (Restriction of hours during construction).**

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

6. **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 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

- 7. Foul water and surface water discharges must be drained separately from the site.**

Reason: To protect the integrity of the public sewerage system and to comply with Policy CF2 of Herefordshire Unitary Development Plan.

- 8. No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment so as to comply with Policy CF2 of Herefordshire Unitary Development Plan.

- 9. B07 (Section 106 Agreement).**

Reason: In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.

- 10. I22 (No surface water to public sewer).**

Reason: To safeguard the public sewerage system and reduce the risk of surcharge flooding so as to comply with Policy DR4 of Herefordshire Unitary Development Plan.

- 11. The developer shall provide a suitable grease trap to prevent entry into the public sewerage system or matter likely to interface with the free flow of sewer contents, or which would prejudicially affect the treatment and disposal of such contents.**

Reason: To protect the integrity of the public sewerage system and sustain an essential and effective service to existing residents.

- 12. Notwithstanding the details submitted, prior to the use commencing, full details of the extraction ventilation system shall be submitted for approval in writing of the local planning authority. The approved details shall be installed in their entirety and appropriately maintained.**

Reason: In the interest of amenity of the area and in accordance with Policy DR1.

Informatives:

- 1. N15 - Reason(s) for the Grant of PP/LBC/CAC.**
- 2. N19 - Avoidance of doubt - Approved Plans.**

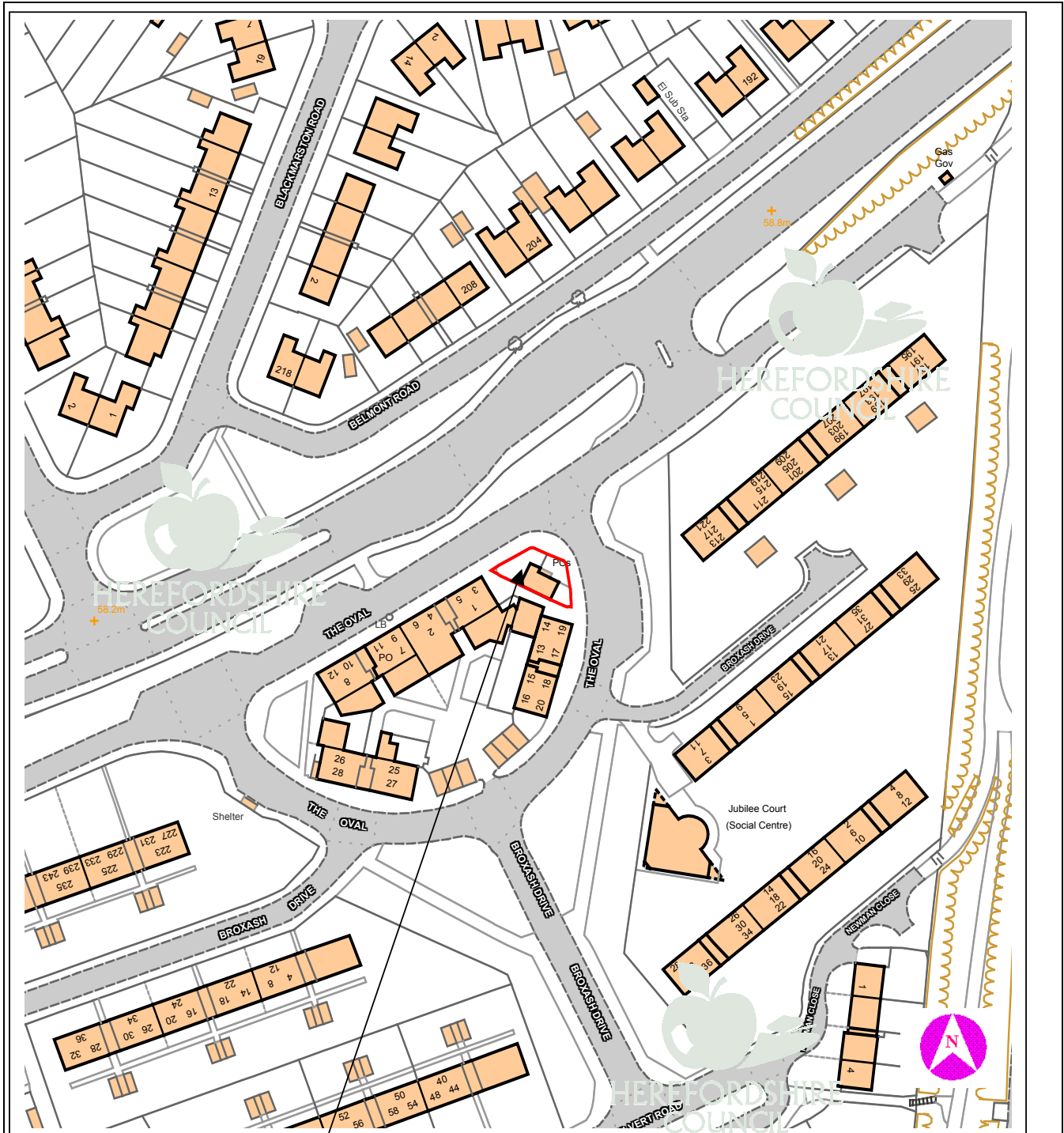
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCW2008/2781/F

SCALE : 1 : 1250

SITE ADDRESS : Public Convenience, The Oval, Belmont Road, Hereford, Herefordshire, HR2 7HG

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This document has been prepared against the criteria set out in the Supplementary Planning Document on 'Planning Obligations' which was adopted in April 2008.

HEADS OF TERMS

Proposed Planning Obligation Agreement

Section 106 Town and Country Planning Act 1990

Planning Application: DCCW2008/2781/F

Proposal: Demolish existing public convenience and replace with three-storey building, hot food takeaway on ground floor, storage on first floor, staff living accommodation on second floor.

Site: The Oval, Belmont Road, Hereford. HR2 7HG

1. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £5,000 towards provision for a CCTV at The Oval the sum shall be paid on or before the commencement of development.
2. In the event that Herefordshire Council does not for any reason use the sums referred to in paragraphs above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
3. The sum referred to in paragraph 1 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
4. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
5. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
6. The developer shall complete the Agreement by (a date to be agreed) otherwise, the application will be registered as deemed refused.

Kevin Bishop
Principal Planning Officer
20 March 2009