

**9 DCCW0009/1654/F - DEMOLITION OF DERELICT PUBLIC TOILET BUILDING AND ERECTION OF TWO STOREY BUILDING FOR HOT FOOD TAKEAWAY ON GROUND FLOOR AND STORAGE ON FIRST FLOOR. DISUSED PUBLIC TOILETS, THE OVAL, HEREFORD, HEREFORDSHIRE, HR2 7HG**

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

**Date Received: 20 July 2009**

**Ward: Belmont**

**Grid Ref: 50010, 38583**

**Expiry Date: 14 September 2009**

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

**1. Site Description and Proposal**

- 1.1 The application site is comprised of a redundant single storey purpose built public toilet, situated at the eastern end of 'The Oval' which is a neighbourhood centre providing a general stores, post office, beauty salon, hairdressers, fish and chip shop, residents information centre, betting office and a sandwich bar. The upper floors are occupied by residential flats.
- 1.2 The application seeks to demolish the existing building and erect a two storey building, comprising a purpose built hot-food take away on the ground floor with ancillary accommodation above. The application has been submitted following negotiations with your Officers to ensure that the previous grounds for refusal were properly addressed.

**2. Policies**

Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
TCR15	-	Hot Food Takeaway Outlets
T11	-	Car Parking
TCR13	-	Local and Neighbourhood Shopping Centres
CF1	-	Utility Services and Infrastructure
CF2	-	Foul Drainage

**3. Planning History**

- 3.1 DCCW2008/2781/F - Demolition existing public toilet convenience and replace with three storey building, hot food takeaway on ground floor, storage on first floor, staff living accommodation on second floor - Refused April 2009.

#### **4. Consultation Summary**

##### Statutory Consultations

- 4.1 Welsh Water - No objection, but suggest the use of standard conditions.

##### Internal Council Advice

- 4.2 Environmental Health & Trading Standards Manager - No objection.
- 4.3 Traffic Manager - No objection, there is adequate parking in the neighbourhood to serve the proposed development.

#### **5. Representation**

- 5.1 Parish of Hereford City Council - No objection, but concerned about passage to the rear and security measures needed to make it safe.
- 5.2 Herefordshire Housing Ltd - I would advise you that Herefordshire Housing Ltd, considers that this revised proposal for a two storey building is more in scale with the surroundings and no longer objects to the design. 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. Further the proposed development does little to address the existing problems with 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 former our premises, which another building taller and larger than that currently on site, would only tend to exacerbate. If arrangements could be made for closure (stopping-up) of this pathway so that it could be blocked off then this would allay our concerns on this point, although we see no proposals relating to this in the application.
- 5.3 Two letters of objection have been received from Colin Goldsworthy on behalf of his client of Mrs. Helen Yau, and Mr. Wong, The Mermaid, 24 The Oval, which are summarised as follows:
- There is no need for another hot food outlet in this area.
  - The plan for the first floor refers to it being storage, but also mentions a flat.
  - The bin stores are overly dominant within the design.
  - The omission of the staff flat will not help the security of the area.
  - The new take-away will give rise to unacceptable levels of traffic generation.
  - Proposed ventilation ducting would surely pollute the existing residents, or create the need for a 20ft high shaft over the top of the roof.
  - The existing alleyway will be hidden where crime may occur.

- There is nowhere for the storage and remove waste, creating smells and attracting vermin.
- The building will obstruct the vision of drives using the adjoining highway.
- The occupier of 24 The Oval intends to take legal action if this development is permitted, as they believe that their tenancy agreement prohibits any form of competition being allowed to operate anywhere within the wider locality.

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 application site forms part of an existing neighbourhood centre, and the nature of the proposed use is considered to be acceptable in this context. Therefore, the primary issues in determining this application are considered to be:

- Design and Layout of the Development
- Residential Amenity
- Vitality and Viability of the Neighbourhood Shopping Centre
- Access and Highways Issues

### Design and Layout of the Development

- 6.2 Following the refusal of planning application DCCW2008/2781/F, this revised scheme has omitted the 2<sup>nd</sup> floor, which results in a reduced the height and massing in response to the original grounds of objection.
- 6.3 The siting, scale and design of the proposed development are considered to be acceptable, and they have taken appropriate account of the position, orientation and massing of the adjoining properties.
- 6.4 Consequently, the proposed development would not appear out of character with the urban grain of wider locality. However to ensure the satisfactory appearance of the development it is considered expedient to recommend conditions requiring the prior approval of external materials and the bin storage areas.

### Residential Amenity

- 6.5 Whilst it is noted that the Environmental Health and Trading Standards Manager has raised no objection to the proposal in general including the erection of ducting on the rear of the building no details of the actual units to be installed have been submitted. Therefore in order for retain a proper degree of control over the completed development an appropriate condition is recommended to secure prior approval of the ventilation plant.
- 6.6 Having consideration for the existing level of activity in and around the neighbourhood shopping centre, the proposed development will not materially intensify this level of activity, to an extent whereby refusal could be sustainably defended in terms of the impact on the residential amenity enjoyed by the surrounding dwellings.
- 6.7 However in order ensure that the amenity of the surrounding area is subsequently protected conditions controlling the hours that the business can trade as well as restricting the use of the property to a hot-food takeaway (A5) are recommended.

- 6.8 In order to protect the general environmental quality of the locality a condition requiring the submission of a litter management plan is recommended, together with a condition to control the hours of operation during the demolition and construction phases.

Vitality and viability of the neighbourhood shopping centre

- 6.9 In terms of the continued vitality and viability of the neighbourhood shopping centre, whilst the comments raised in the letters of representation from a neighbouring business are noted, competition in itself is not a material planning consideration and therefore does not substantiate grounds for refusal in this instance.

Access and Highways Issues

- 6.10 In principle the Traffic Manager has no objection to the proposed development as there is sufficient capacity in the availability of on-street parking serving the neighbourhood centre to accommodate the proposed use.
- 6.11 Whilst the comments raised in the letters of representation about the perceived unacceptable increase in traffic generation are noted, in the absence of any objection from the Traffic Manager, it is not considered that the concerns can be substantiated as a basis for refusal on highway safety grounds.

Planning Obligation

- 6.12 The proposed development falls within the terms of the adopted Planning Obligations SPD and as such is liable for a range of Section 106 contributions. However, in accordance with the decision of the Cabinet Member for Environment and Strategic Housing to relax the requirement for residential schemes for five dwellings or less which came into effect on the 1 April 2009, the proposed development is exempt subject to the planning permission being limited to 12 months.

Conclusion

- 6.13 Overall the proposal complies with the Development Plan, and as such, approval is recommended.

**RECOMMENDATION**

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

- 1. A01 (Time limit for commencement (full permission)).**
- 2. F06 (Restriction on use).**
- 3. B01 (Development in accordance with the approved plans).**
- 4. C03 (Matching external materials (general)).**
- 5. F04 (Restriction on hours of opening (restaurants and hot food takeaways)).**
- 6. G09 (Details of boundary treatments).**
- 7. The building hereby permitted shall not be used as a hot-food takeaway until suitable extraction and ventilation plant/equipment, which will effectively control the emission**

of fumes or smell and obviate any other nuisance from cooking or any other processes carried out in the premises, has been installed and commissioned in accordance with detailed drawings/specifications to be submitted to and approved in writing by the Local Planning Authority. The equipment/plant shall thereafter be operated and maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure that the approved use is carried out in such a way that no undue nuisance is caused through smell or from any other source to the detriment of the occupiers of adjoining properties, or the area generally.

8. The building hereby permitted shall not be used as a hot-food takeaway until, 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, and once approved the premises 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.

9. I16 (Restriction of hours during construction).
10. I33 (External lighting).
11. I37 (Details of shields to prevent light pollution).
12. The developer shall provide a suitable grease trap to prevent entry into the public sewerage system of substances likely to interface with the free flow of sewerage, or which would prejudicially affect the treatment and disposal of such sewerage.

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

13. L01 (Foul/surface water drainage).
14. L02 (No surface water to connect to public system).

#### Informatives

1. N01 - Access for all.
2. N04 - Rights of way.
3. N08 - Advertisements.
4. N12 - Shopfront security.
5. N19 - Avoidance of doubt - Approved Plans.
6. N15 - Reason(s) for the Grant of PP/LBC/CAC.

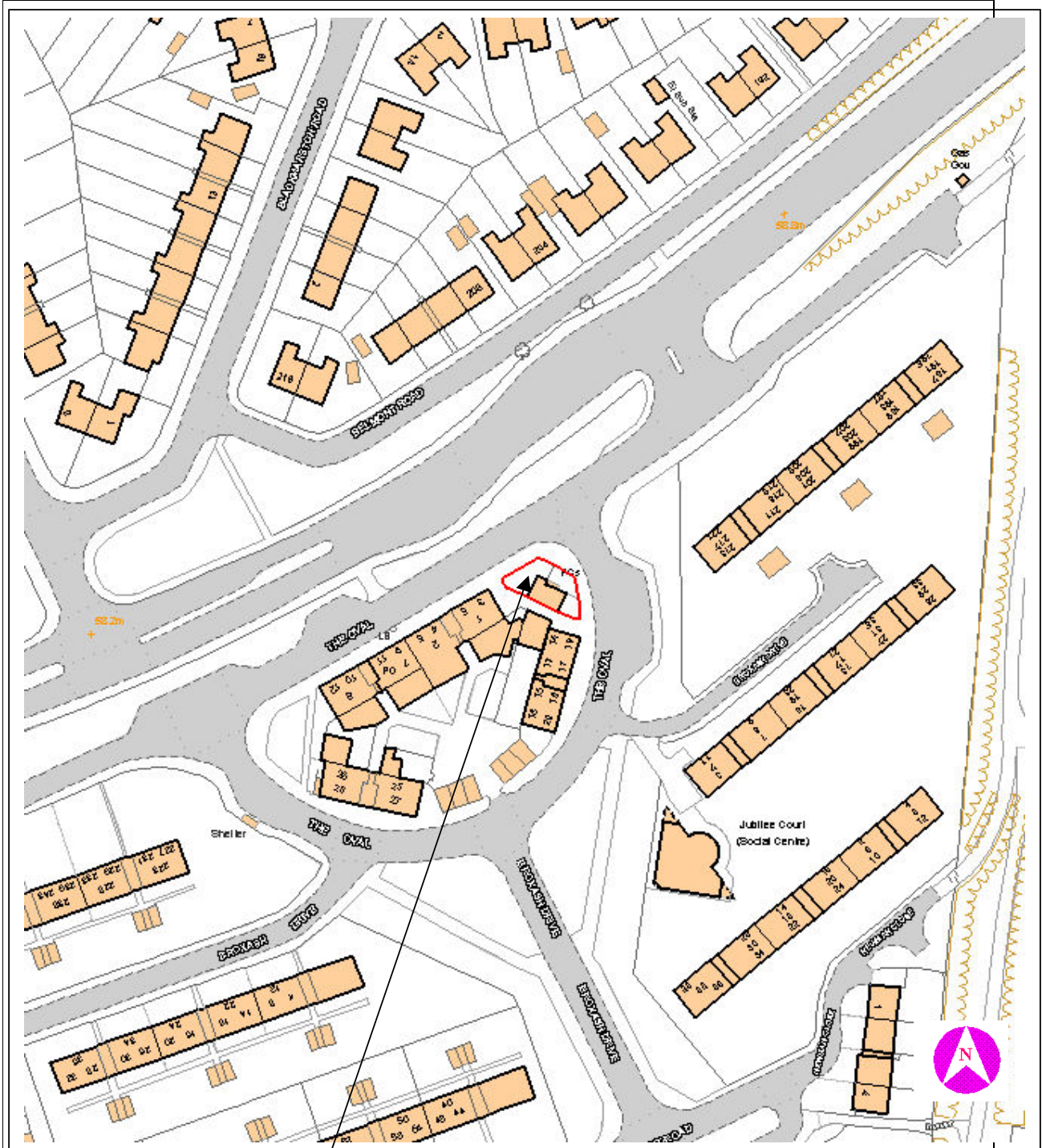
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCCW0009/1654/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Disused public toilets, The Oval, Hereford, Herefordshire, HR2 7HG

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