

6. DCNE2003/3338/F - REMOVAL OF CONDITION 6 OF PLANNING PERMISSION MH92/1564 SOMERFIELD STORES LTD, NEW STREET, LEDBURY, HEREFORDSHIRE, HR8 2EZ

For: Somerfield Stores per Edmund Kirby, India Buildings, Water Street, Liverpool. L2 0TZ

Date Received:
5th November 2003

Ward:
Ledbury

Grid Ref:
70938, 37470

Expiry Date:
31st December 2003

Local Members: Councillors Harling, Rule and Ashton

1. Site Description and Proposal

- 1.1 Somerfields is located on the southern side of New Street, Ledbury.
- 1.2 Planning permission is sought to remove condition no. 6 on planning permission MH92/1564 which requires that all loading/unloading of delivery vehicles shall only take place within the building and that the external doors are closed during these operations. This will then allow them to load and unload within the delivery/service yard area.
- 1.3 The condition was imposed "in the interests of Environmental Health and to protect the residential amenities of nearby residents".
- 1.4 Residential development abuts the boundaries of the Somerfields site.

2. Policies

PPG24 – Planning and Noise

Hereford and Worcester County Structure Plan
Policy CTC9 – Development Requirements

3. Planning History

MH87/595 - Proposed retail supermarket, car-park and service yard - Approved 29 May 1987

MH87/1921 - Application under Section 31A for permission to develop land as retail supermarket, car-park and service yard without need for complying with condition no. 10 of planning permission ref. MH87/595 - Approved 17 August 1987

MH92/1564 - Single storey flat roof extension to rear of existing store over existing service yard, including new roller shutter and fire escape exit door - Approved 1 March 1993

MH93/0982 - Removal of condition nos. 10 and 13 of planning permission ref. MH92/1564 - Approved 27 September 1993

MH90/2317 - Acoustic enclosure to service yard - Approved 14 September 1992

NE99/2914/F - Proposed extension to existing warehouse area - Approved 22 January 2001

4. Consultation Summary

Statutory Consultations

- 4.1 CPRE comment: This condition requires loading and unloading to take place behind closed doors, thus reducing noise nuisance. We assume that the store was designed and built to comply with this condition. It appears that the company have made changes in the use they make of the enclosed space and that these changes make it difficult for them to comply with the condition.

As we see it, any difficulties are of the company's own making and they should seek remedies which do not create a nuisance for neighbours. We therefore ask the Council to reject this application.

Internal Council Advice

- 4.2 Environmental Health and Trading Standards Officer confirms that complaints regarding noise have been received by the department relating to delivery operations as the HGV turns into the yard area and unloading outside the building.
- 4.3 Head of Engineering and Transportation comment: There are no objections to the proposed removal of the condition in principle in traffic and highway terms, providing that HGV's continue to load/unload off the carriageway and can turn and exit the site in a forward gear. However, the applicants letter of support seems incorrect in stating that it is "physically impossible" to load/unload within the building. Having visited the site, the internal area appears to be designed specifically to permit internal loading/unloading, but was seen to be obstructed by pallets, goods, etc.

5. Representations

5.1 Ledbury Town Council - Recommend approval.

5.2 Ten letters of objection have been received, the main points raised are:

- 1) When Somerfields was built this condition was imposed to protect the amenity of residents and it should be retained.
- 2) To remove the condition will increase the noise level emanating from Somerfields in a residential area.

3) This could lead to request for lifting of further conditions.

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

6. Officers Appraisal

6.1 This condition was not imposed on the original planning permission for the store but a later extension, so although they were originally permitted to unload in the service yard they were subsequently restricted when the store was extended in 1992. The extension included an internal loading bay, however this has been consistently used as additional storage area for the store.

6.2 The Environmental Health and Trading Standards Officer would prefer to see the retention of the condition. However given the strict delivery times of 7.00 am to 6.00 pm Monday to Friday and 7.00 am to 1.00 pm on Saturday and no deliveries on Sunday or Bank Holidays, he considers that the proposal is acceptable and within the time periods advised by PPG24 Planning and Noise and accordingly not sustainable on appeal.

6.3 The local residents concerns are noted however, the enforcement of the delivery times will ensure that loading and unloading will take place within acceptable time periods. Finally, a condition will be imposed to ensure engines are turned off and external supply fitted for refrigeration units.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 - All engines shall be stopped when the vehicles have parked ready for loading and unloading and any refrigeration units shall be connected to an external supply feed from the store.**
- 2 - The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of [7.00 am to 6.00 pm] Mondays to Fridays and [7.00 am to 1.00 pm] on Saturdays nor at any time on Sundays, Bank or Public Holidays.**

Reason: To safeguard the amenities of the locality.

Informatives

1 - N15 - Reason(s) for the Grant of PP

**Hereford and Worcester County Structure Plan
Policy CTC9 – Development Requirements**

Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.