

4 DCCE2003/3392/O - CLASS A1 NON-FOOD RETAIL DEVELOPMENT, CAR PARKING, ASSOCIATED FACILITIES & SERVICES DENCO SITE, LAND AT HOLMER ROAD, HEREFORD**For: Morbaine Ltd, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU.****Date Received: 11th November 2003 Ward: Three Elms Grid Ref: 50707, 41642****Expiry Date: 6th January 2004**

Local Members: Councillor Mrs. P.A. Andrews
Councillor Mrs. S.P.A. Daniels
Councillor Ms. A.M. Toon

1. Site Description and Proposal

- 1.1 The application site comprises offices and factory units occupied by "Denco" and located on the east side of Holmer Road. To the north side of the site is further industrial development with small wholesale warehouses beyond; to the south side is a BT depot with further retail warehouses beyond. Vehicular access to the site is via a private road which runs along the north side of the site providing access to Denco and further industrial land and a private playing field to the rear. A public footpath runs alongside the south side of the site.
- 1.2 All the properties on the east side of Holmer Road gain access to Holmer Road via a service road which runs parallel with Holmer Road. This service road gains access to Holmer Road at two points - opposite the existing vehicular access to the application site (where there is a mini-roundabout on the service road and a "T" junction with Holmer Road), and further to the south (where there is just a "T" junction). The service road also has a restricted exit only "T" junction with Roman Road to the north.
- 1.3 The application is for outline planning permission to demolish the existing offices and factory buildings and erect a non-food retail development with associated parking and servicing. All matters are reserved except means of access which would be by way of the existing private road on the north side of the site for service and delivery vehicles and a new "T" junction towards the south side of the site for customers' cars. Both accesses would be onto the service road. The existing northern access from the service road onto Holmer Road would be improved together with the mini-roundabout on the service road.
- 1.4 Illustrative drawings have been included with the applications suggesting possible layouts for the site. One option shows a single DIY warehouse of 5574 sq. metres and associated garden centre of 1115 sq. metres, and the other shows a row of five smaller retail warehouse units of 929 - 1858 sq. metres. Both include parking in the order of 309 - 319 spaces.
- 1.5 The application is supported by a Retail Assessment and Employment Land Study and a Traffic and Highways Report.

2. Policies

2.1 Hereford Local Plan:

ENV14 – Design
ENV15 – Access for all
ENV16 – Landscaping
E2 – Established employment areas
E6 – Other uses on employment land
S1 – Role of Central Shopping Area
S11 – Criteria for large scale retail development
T2 – Highway and junction improvements

2.2 Herefordshire UDP (Deposit Draft):

S1 – Sustainable development
S2 – Development requirements
S4 – Employment
S5 – Town centres and retail
TCR1 – Central shopping and commercial areas
TCR2 – Vitality and viability
TCR9 – Large scale retail development outside central shopping and commercial areas
TCR25 – Land for retail warehousing

3. Planning History

3.1 There is no relevant planning history.

4. Consultation Summary

Statutory Consultations

- 4.1 Highways Agency : views awaited.
4.2 Dwr Cymru Welsh Water : recommend conditions.
4.3 Open Spaces Society : Interests not affected.
4.4 The Ramblers Association : Interests not affected.

Internal Council Advice

4.5 Head of Engineering and Transportation : A Green Travel Plan will be required. Detailed amendments will be required to the service road improvements before acceptable. Servicing arrangements will require amendments. Too many parking spaces under PPG13 advice although no objection to additional disabled bays.

The public footpaths should be kept clear at all times during development.

4.6 Environmental Health Manager : Recommend contaminated land condition.

5. Representations

5.1 Hereford City Council : Application is premature in the light of the yet undetermined policies envisaged in the emerging UDP.

5.2 There are no third party representations.

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

6. Officers Appraisal

6.1 The main issues in this case are the principle of retail development on the site, the impact on the character of the area and highway safety.

6.2 Principle of Retail Development

Policy C1 of the Local Plan states that the Council will seek to protect and retain the central shopping area as the prime shopping area in Hereford. PPG6 confirms this approach, requiring new development to be focused, especially retail development, in central locations where the proximity of businesses facilitates competition from which all consumers are able to benefit. With this in mind, the PPG requires developers and local planning authorities to apply a sequential approach in selecting sites for new retail development, to demonstrate that all potential town centre options have been thoroughly assessed before less central sites are considered for town centre uses. Where there is no need or capacity for further developments, there will be no need to identify additional sites. With specific regard to retail warehouses, the PPG recognises that often these cannot be easily located in town centres. However, it further states that as they share many of the characteristics of large retail outlets, warehouses must, in any event, be treated as retail businesses.

6.3 The UDP Deposit Draft provides similar policy guidance through Policies S5, TCR1 and TCR2. However, in addition and with particular regard to quantitative need, the UDP acknowledges a requirement for between 11,000 – 15,000 sq. metres of additional retail warehouse floor space in Hereford to be provided within the Plan period. Historically this acknowledged shortfall in retail warehouse floor space was proposed to be met on land at Commercial Road and Widemarsh Street (the Hereford Local Plan Policy S12 area and, previous to this, “Sector F”), although these allocations have remained largely undeveloped for retail purposes. Policy TCR25 of the UDP, therefore, identifies land at Holmer Road (adjacent to the application site) and Blackfriars Street to fulfil some of the need. The Blackfriars Street allocation and the extant Local Plan allocations are now within the “Edgar Street Grid” where other uses are anticipated. Consequently, the only usable allocation in the UDP comprises the land at Holmer Road.

6.4 Having regard to this background, it is evident that there is an accepted shortfall of retail warehouse floor space and that this shortfall is not fulfilled by current local plan or proposed UDP land allocations. Sites not allocated for the purpose, such as the application sites, therefore cannot be ruled out as a matter of principle in quantitative terms and must be considered on their own particular merits having regard to qualitative and sequential test principles.

- 6.5 This conclusion is confirmed by the Retail Assessment and Employment Land Study (RA&ELS) which forms part of the planning application. The RA&ELS revisits the Council's own retail capacity assessment undertaken as part of the UDP process and, after taking into account other more recent retail warehouse development including the CASA site, concludes that there is further capacity. This conclusion is accepted, particularly in the light of the circumstances set out in the previous paragraphs. The RA&ELS also concludes that the impact of the proposed development on the retail economy of the city centre is likely to be insignificant.
- 6.6 Regarding qualitative need, the RA&ELS assesses business representation within Hereford and concludes that there is limited and, in certain sectors such as office equipment, no retail warehouse representation. The RA&ELS also lists companies who have a requirement for large stores in retail park locations within Hereford. Notwithstanding that a number of the companies on this list are not retailers of large, bulky goods requiring retail warehouse accommodation, these are considered to be sound qualitative arguments for allowing additional retail warehouse floor space in Hereford. A condition would, however, be required to limit the nature of goods sold to comparison bulky goods only. It is not considered that the RA&ELS provides any sound justification for allowing retail development for other and/or non bulky goods on out of centre sites such as the application site when vacant units and appropriate small sites exist in and/or closer to the town centre.
- 6.7 Having regard to the foregoing paragraphs, it is considered that there is a quantitative and qualitative need for further retail warehouse floor space within Hereford and that this need cannot be fully met by either current Local Plan allocations or proposed UDP allocations.
- 6.8 The Sequential Approach
- As stated previously, PPG6 requires a sequential approach to be applied when considering sites for new retail development. Essentially this means that first preference should be for town centre sites, followed by edge of centre sites, district and local centres and finally out of centre sites in locations that are accessible by a choice of means of transport.
- 6.9 By their very nature, retail warehouses require considerable land-take and this immediately limits the number of sites available, particularly in tight knit city centres such as Hereford. Notwithstanding this, the RA&ELS considers Bewell Street and Berrington Street/Victoria Street as potential town centre sites but rules these out as too small or intended for other purposes. Edge of centre sites considered include Friars Street, Widemarsh Street, Blackfriars Street and the Livestock Market site, but each is considered inappropriate in view of other allocated uses within the emerging UDP or their general unsuitability for the purpose intended. Out of centre sites include the football ground and the allocated Holmer Road site. The football ground fails in view of its intended allocation as a football ground. The Holmer Road site is ruled out in view of its "limited commercial appeal" stemming from its backland position and narrow frontage.

6.10 The RA&ELS's application of the sequential approach is considered to be thorough with reasoned and sound conclusions. It is considered that, having regard to the limited number of available sites for this form of development, the insufficient amount of land allocated for the purpose in the emerging UDP, and the general unsuitability of all of the sites discussed, that an alternative out of town centre site is an acceptable option.

6.11 The Application Site

The application site itself is designated as Established Employment Land in the Hereford Local Plan. Here Policy E6 resists proposals for non Class B uses as a matter of principle. The site is similarly designated in the emerging UDP, although land to the south is allocated for retail warehouse purposes.

6.12 Notwithstanding these allocations, there are a number of sound arguments for allowing retail warehouse development on the site. Firstly, the site lies on the Holmer Road frontage which is largely dominated by retail warehouse units. Secondly, the site lies on a main road with good public transport connections. PPG6 specifies that local planning authorities should seek to ensure that developments of this nature are located where they would be easily accessible by a choice of means of transport. The accessibility of the site and proximity of other retail units would ensure shared shopping trips in accordance with sustainable development principles.

6.13 Thirdly, the site is adjacent to an allocated retail warehouse site in the emerging UDP and is similar, in terms of its size and depth, to this allocation. In pure development control terms, benefits could potentially be gained by combining the sites.

6.14 Fourthly, the loss of employment land is not considered to be overriding in this instance, in view of other available sites for employment development, in particular at Rotherwas and Morton Park (where Denco intend to relocate), which can sustain future anticipated employment needs.

6.15 It is considered that these various material considerations outweigh the usual presumption against non-business use on this particular site. It is further considered that use for retail warehousing is appropriate within the context of the site and in view of the access to alternative transport means.

6.16 Detailed Considerations

Policy S11 of the Local Plan sets out detailed criteria for large scale retail development outside the city centre requiring, in particular, easy and safe access by both public and private transport, an acceptable impact on the local highway network, no adverse environmental consequences and compliance with other policies of the Local Plan.

6.17 The application is supported by a Traffic and Highway Report, the content of which is accepted. This concludes that the proposed development would not have any material adverse effects on the highways in the vicinity of the site. Changes are proposed to the site access and to the mini-roundabout junction to improve safety and aid traffic flows. In terms of parking provision, the illustrative drawings demonstrate that there is sufficient space to accommodate enough parking spaces to meet estimated demands (309 – 319 spaces).

- 6.18 The Report also notes that the site is close to public transport connections and is accessible to pedestrians but not cyclists. To encourage further walking and cycling trips it is considered that improvements would be required to nearby footpaths, and a Section 106 agreement is recommended requiring the applicant to make a financial contribution towards this. Such an obligation would confirm the applicant's intentions to achieve a sustainable development in accordance with both PPG13 and PPG6 principles.
- 6.19 All matters relating to layout and design are reserved. Notwithstanding this, within its commercial context it is not considered that the proposals would have a detrimental impact on amenity as a matter of principle. Indeed, the application offers an opportunity to upgrade and enhance the locality with a modern building and new landscaping.
- 6.20 Conclusion

In conclusion, it is considered that this proposal is acceptable, meeting an acknowledged need for further retail warehousing in Hereford in an appropriate and sustainable location. Loss of the employment land is not considered to be overriding in this case having regard to the particular characteristics of the site, the proximity of other retail warehouses and the demonstrated availability of other employment land in and near to the city. A condition is recommended limiting the nature of goods to be sold primarily to bulky items which require retail warehouse floor space in the interests of safeguarding the vitality and viability of the town centre.

RECOMMENDATION

That subject to no objection being raised to the development by the Highways Agency:

- i) the application be referred to the Government Office for the West Midlands under the departure procedures; and**
 - ii) subject to the Secretary of State confirming that he does not intend to call it in, the County Secretary and Solicitor be authorised to complete a planning obligation under Section 106 of the Town & Country Planning Act 1990 requiring the applicant to make a financial contribution to cover the cost of upgrading footpaths in the locality to achieve improved pedestrian and cycle access to the site and any additional matters and terms as is considered appropriate; and**
 - iii) upon completion of the above mentioned planning obligation, the Officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any other conditions considered necessary by officers.**
- 1 Approval of the details of the siting, design and external appearance of the buildings, the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To enable the local planning authority to exercise proper control over these aspects of the development.

- 2 - Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 4 Plans and particulars of the reserved matters referred to above relating to the siting, design and external appearance of any buildings to be erected, the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 5 Notwithstanding the details of the means of access and off-site highways works shown on drawing No. 031102/01 attached with the Traffic and Highways Report dated November 2003, a revised drawing shall be submitted showing a change of priorities to facilitate the right turn in from Holmer Road / left turn out towards Holmer Road and a white lining scheme in place of kerb works. The development shall be carried out in accordance with the approved revised drawing.

Reason: In the interests of highway safety.

- 6 No development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings.

- 7 The premises shall be used as a retail warehouse within Class A1 of the Town & Country Planning (Use Classes) Order 1987 with the exception of the following uses:

- i) the sale of food and drink to be consumed off the premises;
- ii) sale of clothing and footwear;
- iii) sale of cutlery, crockery and glassware;
- iv) sale of jewellery, clocks and watches;
- v) sale of toys, camping and travel goods;
- vi) sale of books, audio and visual recordings and stationery except for the retail sale of office supplies, office equipment and office furniture including the sale of both bulky and non-bulky catering packs of food and drink for office use;
- vii) sale of medical goods, cosmetics and toiletries;

- viii) sales of sports goods, equipment and clothing;
- ix) all uses within Categories A1 (B to F) of Class A1;

except where the retail sale of these goods forms a minor and ancillary part of the operation of any of the retail activity.

Reason: The Council's policy as set out in the Hereford Local Plan is directed towards the protection of the commercial viability of the existing central shopping area of Hereford. This condition is imposed in order to clarify the terms of the permission in accordance with the Council's stated policy, having regard to the need to protect the viability of the historic town centre.

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

Reason: To protect the integrity of the public sewerage system.

- 9 There shall be no, direct or indirect, discharge of surface water or land drainage run-off to the public foul sewer.

Reason: To safeguard the public sewerage system and reduce the risk of surcharge flooding.

- 10 Details of any floodlighting or external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities.

- 11 Prior to the commencement of development a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of amenity.

- 12 Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to, and avoid, risk to the environment when the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.

Reason: To ensure that potential contamination of the site is satisfactorily assessed.

- 13 No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and any necessary tree surgery. All proposed planting shall be clearly described with species, sizes and planting numbers.

Reason: In order to protect the visual amenities of the area.

- 14 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

Reason: In order to protect the visual amenities of the area.

- 15 No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building(s) is/are occupied]. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

- 16 The development hereby permitted shall not be brought into use until areas for the manoeuvring, parking, loading and unloading of vehicles have been laid out, consolidated, surfaced and drained in accordance with a scheme to be submitted to and approved in writing by the local planning authority and such areas shall thereafter be retained and kept available for those uses at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

- 17 Development shall not begin until the engineering details and specification of the proposed car parks, roads and highway drains have been submitted to and approved in writing by the local planning authority.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.

- 18 Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interests of highway safety.

- 19 Before the development is commenced a scheme for the provision of secure cycle parking on site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

- 20 The development hereby approved shall not commence until details of improvements to public footpath HER9 have been submitted to and approved in writing by the local planning authority. These details shall form part of the overall siting details and will incorporate the footpath into the overall layout. The details shall include specification of construction and surfacing to enable potential pedestrian and cycle use, all to be agreed in writing by the local planning authority. The details shall be implemented as approved prior to the development opening to customers.

Reason: To ensure the proper planning of the site and achieve sustainable integration with the wider rights of way network.

Informatives:

- 1 The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
- 2 A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.
- 3 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Mr. A.G. Culley, Divisional Surveyor (South), Unit 3, Thorn Business Park, Rotherwas, Hereford Tel: 01432-261955, shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification for the works together with a list of approved contractors.
- 4 No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact Mr. R.J. Ball, Lead Planner (Transportation), PO Box 236, Hereford, HR4 9ZH to progress the agreement.
- 5 The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.

- 6 Your attention is drawn to the requirements of Part M of the Building Regulations 1991 in respect of the need to provide access and facilities for the disabled.
- 7 This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
- 8 This permission does not extinguish any rights of way which may exist over the site nor does it imply that such rights of way may be diverted or otherwise altered.
- 9 Your attention is drawn to Section 80 of the Building Act 1984 whereby no demolition may be carried out without proper notice to the local authority and a counter notice issued under Section 81.
- 10 Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:

Work on an existing wall or structure shared with another property
Building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property
Excavating near a neighbouring building.

The legal requirements of this Act lies with the building/site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DETR publication The Party Wall Act 1996 - explanatory booklet. Copies are available from the Planning Reception, Blueschool House, Blueschool Street, Hereford.

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

The decision to grant planning permission has been taken having regard to the policies and proposals in the Hereford Local Plan set out below, and to all relevant material considerations including Supplementary Planning Guidance:

ENV14 - Design

E2 - Established employment areas

E6 - Other uses of employment land

S1 - Role of central shopping area

S11 - Criteria for large scale retail development

T2 - Highway and junction improvements

This informative is only intended as a summary of the reasons for grant of planning permission. For further detail on the decision please see the application report by contacting Reception at Blueschool House, Blueschool Street, Hereford (Tel: 01432-260342).

- 12 If the development will give rise to a new discharge (or alter an existing discharge) of trade effluent, directly or indirectly to the public sewerage system, then a discharge consent under Section 118 of the Water Industry Act 1991 is required from Dwr Cymru Welsh Water. The applicant should note that the issuing of a discharge consent is independent of the planning process and a consent may be refused although planning permission is granted.

- 13** If a connection is required to the public sewerage system, the developer is advised to contact the Dwr Cymru Welsh Water's Network Development Consultants on telephone 01443 331155.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.