

**16 DCNW2004/0695/F - PROPOSED CHANGE OF USE OF  
TIMBER YARD AND BUILDERS MERCHANT TO  
REFURBISHING, JETTING AND VACUUM TREATMENT  
TO TANKER LORRIES, AND HIRES AND SALES OF  
THE SAME AT FORMER KEEBLE TIMBER YARD,  
KINNERSLEY, HEREFORDSHIRE HR3 6QE**

**For: Messrs Betts & Evans per Mr D Walters,  
27 Elizabeth Road, Kington, Herefordshire. HR5 3DB**

**Date Received:  
25th February 2004  
Expiry Date:  
21st April 2004**

**Ward:  
Castle**

**Grid Ref:  
35647, 50158**

Local Member: Councillor J Hope

**1. Site Description and Proposal**

- 1.1 The application site comprises the former Keebles timber yard and builders merchant and is located in a prominent position immediately to the north of the A4112 between Sarnesfield and Kinnersley. It is primarily characterised by the large two-storey red brick building which dominates the centre of the site and stretches almost its full width. To the rear are a number of later lean-to extensions and an open sided storage building located close to the northern boundary. A brook runs the entire length of the northern boundary which is otherwise defined by mature trees and hedgerow. The remainder of the roadside boundary is defined by close boarded fencing and a small amount of hedgerow and the balance of the application site is given over to hardstanding, previously used for timber/building material storage, car parking and deliveries.
- 1.2 The site is located in open countryside but the surrounding area is characterised by a scattering of dwellings with Sallies Farm immediately to the east and Sallies Cottage, The Old Cider House, Brook Cottage and Yew Tree Cottage to the west.
- 1.3 The premises which is now vacant benefits from two points of access to the front and rear of the main building from the unclassified road close to its junction with the A4112.
- 1.4 Planning permission is sought to change the use of the land and buildings from its former use as a timber yard and builders merchant to a use for the refurbishment, jetting and vacuum treatment of tanker lorries and their hire and sale. The applicants trading as UK Tankers Ltd are currently located on the Linton Trading Estate in Bromyard and are seeking larger premises in which to relocate.

## 2. Policies

### **Hereford and Worcester County Structure Plan**

Policy E6 – Industrial Development in Rural Areas

Policy CTC9 – Development Requirements

### **Leominster District Local Plan (Herefordshire)**

Policy A1 – Managing the District's Assets and Resources

Policy A2(D) – Settlement Hierarchy

Policy A9 – Safeguarding the Rural Landscape

Policy A13 – Pollution Control

Policy A15 – Development and Watercourses

Policy A24 – Scale and Character of Development

Policy A28 – Development Control Criteria for Employment Sites

Policy A31 – Employment Generating Uses Within or Around The Market Towns

Policy A36 – New Employment Generating Uses for Rural Buildings

Policy A54 – Protection of Residential Amenity

Policy A70 – Accommodating the Traffic From Development

Policy A75 – Design of Vehicle Parking Areas

### **Herefordshire Unitary Development Plan (Deposit Draft)**

Policy S1 – Sustainable Development

Policy S2 – Development Requirements

Policy S4 - Environment

Policy DR2 – Land Use and Activity

Policy DR3 - Movement

Policy DR6 – Water Resources

Policy DR13 - Noise

Policy E8 – Design Standards for Employment Sites

Policy E11 – Employment in the Countryside

Policy T11 – Parking Provision

Policy LA2 – Landscape Character and Areas Least Resilient to Change

## 3. Planning History

94/0723 - Construction of covered area for timber storage. Approved 20 January 1995

90/0672 - Provision of new warehouse, timber store and carpark. Approved 15 November 1990

33336 - Provision of hardstanding and improved vehicular access. Approved 17 May 1972

30653 - Use of existing building for storage of building materials. Refused 3 December 1971

30652 - Use of land as site for 2 caravans. Refused 22 November 1971

14448 - Provision of a vehicular access. Approved 15 February 1963

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 Environment Agency raise no objection subject to conditions requiring an assessment of any land contamination and necessary remediation to be agreed and the appropriate bunding of any facilities required for storage of oil, fuels or chemicals. Informative notes are suggested relating to surface water arrangements, foul drainage and pollution prevention.

##### Internal Council Advice

- 4.2 The Head of Environmental Health and Trading Standards makes the following comments: "I would confirm that I am of the opinion that the proposed use for the above site is acceptable in that it should not cause unacceptable disturbance nor nuisance to the occupiers of nearby dwellings. I would however take this opportunity to advise that the former use of the site did generate complaints to this service, principally about noise nuisance. I would therefore recommend that should it be minded to grant permission that conditions are imposed to protect the amenity of neighbours.

I would suggest that:

1. A condition is imposed restricting the type of equipment that can be used on site so that the metal fabrication component of the proposal is limited to the production of parts of the type associated with the refurbishment of the tankers etc. e.g. all powered tools and equipment to be agreed with the Planning Authority.
2. That some restriction is imposed on the use of the open sided buildings e.g. no power tools or machinery to be used within these buildings. I understand from the applicant that it is a future intention to infill the walls of this structure. At such time it would be possible to extend the type of activity permitted in the building as a suitable scheme of noise insulation could be agreed.
3. Finally, I suggest that an hours of work restriction is imposed. The present use could operate without restriction, although I understand that machinery etc. at the timber yard was only used during the daytime. Having discussed this issue with the applicants I understand that it is their intention, in the main, to adhere to this practice but that there may be occasions when certain activities will be required to take place outside the normal working day. I therefore propose that a condition restricting work activities could be on the lines of the following:-

**'No metal fabrication, maintenance, construction or repair of vehicles and associated parts shall occur before 7.00 am on weekdays and Saturdays nor after 7.00 pm on weekdays and 1.00 pm on Saturdays, nor at any time on Sundays, Bank or Public Holidays'.**

These hours of work are longer than those requested by neighbours and in excess to the hours often imposed, but they represent a material improvement in the protection provided over that, that could occur should the existing use of the premises be resumed. The condition does however allow the applicant to undertake certain activities outside the permitted hours but should ensure that unacceptable disturbance is not caused."

- 4.3 Head of Engineering and Transportation raises no objection based upon the information supplied by the applicant regarding size and frequency of vehicular activity. Parking and turning areas need to be properly demarked by way of a condition.
- 4.4 Drainage Engineer raises no objection in principle subject to conditions relating to the installation of interception to the surface water system and the provision of a drainage layout in order to prevent possible pollution of the nearby water course.

## 5. Representations

5.1 A total of 4 representations have been received from the following persons:-

- John Allen, Sallies Farm, Kinndersley, Herefordshire, HR3 6QD
- A K Spence, Bush Cottage, The Sallies, Kinndersley, Herefordshire, HR3 6QD
- Mrs J Holmes, Sallies Cottage, Kinnersley, Herefordshire, HR3 6QD
- Stephen Powell, The Old Cider House, The Sallies, Kinnersley, Herefordshire, HR3 6QD

5.2 The concerns raised can be summaries as follows:

- proposed change of use will create noise and other pollution in an otherwise residential community
- difference between small country timber yard and proposed engineering/engineering works
- level of HGV traffic will cause disturbance
- how will any waste products be disposed of?
- potential for pollution of the stream which runs along the rear of the site
- site should be redeveloped for affordable houses for young people
- will noise levels be appropriate to their rural area and will hours of operation be controlled?
- pollution of local environment through jetting/washing of tankers potentially carrying hazardous substances
- airbourne dust and particles could contaminate the local area and affect soil conditions and garden plants
- will noisy/dusty uses be contained with an enclosed area?
- additional traffic movements could cause highway safety problems at junction with unrestricted main road
- proposal should preserve existing evergreen trees and hedgerows along boundaries to the site
- potential overloading of the stream from additional discharge of water could result in localised flooding
- permission should only be granted if these conditions can be complied with - hours of working limited, no collection/delivery of vehicles outside the core hours, all equipment/machinery used inside the building with doors closed, no storage of vehicles/equipment on the access road, no running of engines/equipment for vehicle testing, a boundary noise level limit should be set, no venting of tankers to be allowed beyond the site boundary.

5.3 Kinnersley Parish Council raises no specific objection but make the following comments:

- clarification regarding treatment of storm and foul water required, in particular the provision of permanent receptacles for waste products
- noise levels need to be carefully considered and limited to an acceptable level. Details of sound proofing should be agreed at this initial stage
- no indication of working hours.

5.4 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 The key issues for consideration in the determination of this application are as follows:

- a) the principle of the proposed change of use to the refurbishment, jetting and vacuum treatment of tanker lorries including hire and sales;
- b) the potential impact of the use on the residential amenities of nearby occupiers;
- c) other environmental implications including drainage arrangements and
- d) traffic and access arrangements

### Principle of New Use

6.2 The land and buildings subject of this application have until recently been used in connection with a long established timber yard and builders merchant and as such whilst the site does clearly lie in open countryside there is a presumption in favour of retaining such land in commercial use appropriate to its residential context. Policy A29 of the Leominster district Local Plan (Herefordshire) offers protection for existing industrial or commercial operations in rural areas provided the environmental and highway related effects of the use do not outweigh its economic and employment benefits. Having regard to the sites isolated location it would not be appropriate to consider it for residential re-use and as such enabling an acceptable new commercial use to establish itself represents the most viable approach in planning policy terms. In this case the applicant is seeking to relocate to the Keebles site from existing premises on the Luton Industrial Estate.

6.3 Clearly the new use would need to satisfy policy criteria relating to the protection of residential amenity and the local environment together with being safely accommodated with respect to access and the use of the road network.

### Impact on Residential Amenity

6.4 It is quite apparent from the objections received to this application that the potential noise and disturbance associated with the proposed use is a fundamental concern. The applicants business involves the refurbishment and repair of tanker lorries with associated hire and sales. It is proposed that the main workshop floor space would be contained within the main brick built building and its extensions to the rear and furthermore confined to the central section of this building with storage and office space accommodated at either end in order to limit the effect of the noisier activities on the immediate neighbouring properties.

- 6.5 In reaching a recommendation it is advised that the Head of Environmental Health and Trading Standards has made a specific visit to the applicants existing premises on the Linton Industrial Estate in Bromyard, and it is not considered that the activities associated with overhauling the tanker lorries would result in an unacceptable level of noise provided appropriate limitations upon the timing of particular activities are put in place. Consultation with the applicant has established that a restriction on repair and maintenance work between 0700 and 1900 from Monday to Friday and 0700 – 1300 on Saturday would be acceptable. In terms of the viability of the business the applicant would wish to use the site outside of these hours for office based work and for the occasional delivery. Since the existing timber yard use is not restricted in any manner, the hours offered by the applicant are regarded as an acceptable compromise and would serve to bring about a level of control that would not be enforceable under planning legislation should the lawful timber yard use restart.
- 6.6 Additional restrictions have been considered in discussion with the applicant and it has been agreed that specific conditions relating to the noise attenuation of individual pieces of equipment within the main body of the building can reasonably be imposed as can the control of activities outside the main brick built building. A major concern has been the potential use of the open sided building for noisy refurbishment works and the intention would be to limit its use to activities that would not generate significant noise such as the use of hand tools. The applicant has suggested that in future his intention would be to clad the building. This would in its own right require planning permission and enable the consideration of such a proposal through the normal planning procedures. Until such time as this becomes a reality it would be inappropriate to allow unrestricted use of noisy machinery, which would essentially be open to the elements.
- 6.7 The concerns of local residents are acknowledged, and it is recognised that the limitations agreed with the applicant in consultation with the Head of Environmental Health and Trading Standards are not as stringent as those requested in neighbours responses. However, having regard to the potential implications of the existing timber yard use and the controls, which this application enables to be imposed, it is considered that the proposal represents an acceptable compromise so far as securing an ongoing commercial use of the site is concerned.
- 6.8 The level of vehicular activity would amount to the 6 cars used by employees plus the occasional supplier/customer, two or three small commercial van deliveries per week with approximately 5 – 10 tanker deliveries per week. This is considered to compare favourably to the potential vehicular activity associated with a timber yard and would as such not represent reasonable grounds for the refusal of planning permission.

Other Environmental Implications (including drainage)

- 6.9 The site is located close to a minor aquifer and the Environment Agency have requested the preparation of a detailed contamination study incorporating an appraisal of the potential impact of the proposed development upon the ground water and mitigation for any contaminants identified through the historic uses of the site. Furthermore it is recommended the conditional control would need to be imposed in respect of the storage of oil, fuels or chemicals and full details relating to the treatment of surface water drainage and the potential to install interceptors into the existing storm water system prior to any discharge into the brook running along the northern boundary.

- 6.10 Again the sensitivity of this site and its relationship to neighbouring occupiers and the existing brook is recognised and the relevant elements relating to impact upon ground water supplies, contamination, storage of hazardous/polluting substances and the isolation of such containments through the storm water arrangements can be covered by way of conditions.
- 6.11 Since the Environment Agency and the Council's Drainage Engineer raise no objection in principle it is considered that the attachment of such conditions would enable support for this application and secure an acceptable ongoing commercial use of the site in terms of its effect on the local environment.

#### Traffic and Access

- 6.12 The level of traffic associated with the proposed use has been summarised at paragraph 6.8 above and is relatively modest, such that the Head of Engineering and Transportation raises no objection to the safe use of the local road network.
- 6.13 The operational requirements within the site dictate that the access in front of the main building will be used for light deliveries and employees/visitors parking. The access to the rear will be used to deal with heavier deliveries that will pull in alongside the lean-to extensions on the back of the main building.
- 6.14 The space at the rear of the site is somewhat confined but having regard to the low level of delivery activity and the fact that this compares favourably to the potential traffic generated by a timber yard use, it is not considered that this matter would warrant the refusal of planning permission.

#### Conclusion

- 6.15 This application has generated significant concern amongst those residents living in the immediate vicinity of the site and as such the environmental implications of this proposal have been given careful consideration. In consultation with the Head of Environmental Health and Trading Standards and the Environment Agency in particular a series of conditions are proposed which would safeguard the amenities of local residents from unacceptable noise and disturbance. The ability to impose such conditions on a site which is currently unregulated so far as planning controls are concerned is seen as an important and positive aspect of the application, which having regard to the lawful use of the site as a timber yard/builders merchants, is considered acceptable.

### **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. No metal fabrication, maintenance, construction or repair of vehicles and associated parts shall occur before 0700 on weekdays and Saturdays nor after 1900 on weekdays and 1300 on Saturdays, nor at anytime on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality.

3. E06 – Restriction on Use (the refurbishment, jetting and vacuum treatment of tanker lorries and their hire and sales) (Class B2).

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity.

4. There shall be no open-air operation of plant, machinery or equipment within the application site with the exception of certain activities, which shall be agreed in writing together with the equipment required for these purposes, prior to the commencement of the use hereby approved. The use shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the amenities of the locality.

5. Prior to the commencement of the use hereby approved, details of all plant and machinery to be used within the application site shall be supplied together with a scheme of associated sound attenuation as required. The approved scheme shall be implemented in accordance with these details and thereafter retained.

Reason: To safeguard the amenities of the location.

6. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, garages and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.



- 7. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, garages and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

- 8. Development shall not commence with a scheme to deal with the contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a desktop study and site investigation to identify the extent of contamination and the measures taken to avoid risk to the environment. The agreed method statement shall include a report to demonstrate that the required remediation has been fully met and future monitoring proposals. Development shall be carried out in accordance with the details so approved.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed to an appropriate standard.

- 9. Development shall not commence with a scheme to deal with the contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a desk-top study and site investigation to identify the extent of contamination and the measures taken to avoid risk to the environment. The agreed method statement shall include a report to demonstrate that the required remediation has been fully met and future monitoring proposals. Development shall be carried out in accordance with the details so approved.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed to an appropriate standard.

- 10. H13 - Access, turning area and parking

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.