

**DCNE2004/0241/F - REMOVAL OF CONDITION 7 OF  
PLANNING CONSENT MH92/1564 SOMERFIELD  
STORES LTD, NEW STREET, LEDBURY,  
HEREFORDSHIRE, HR8 2EZ**

**For: Somerfield Stores Ltd per Edmund Kirby India  
Buildings Water Street Liverpool L2 0TZ**

**Date Received:  
20th January 2004**

**Ward:  
Ledbury**

**Grid Ref:  
70938, 37470**

**Expiry Date:  
16th March 2004**

Local Members: Councillors P Harling, D Rule MBE and B Ashton

**Members will recall that this application was deferred to enable an update of outstanding breaches at the premises.**

**The Council's Enforcement Officer has confirmed that the only outstanding breach is the storage of cages etc in the service/delivery yard and this is the subject of this application.**

**Investigations are continuing regarding the early arrival of delivery vehicles. The objectors have been asked for further information but none have been forthcoming.**

**The previous report is as follows:**

### **1. Introduction**

Somerfield is located on the south side of New Street, Ledbury. Planning Permission is sought to remove condition 7 on Planning Permission MH92/1564 which requires that there shall be no use or storage of trolleys on the adjacent open air service yard. The condition was imposed 'in the interest of environmental health and to protect the residential amenities of nearby residents'. A screen is proposed to be attached to the gates to limit views from New Street. Residential development abuts the boundaries of the Somerfield 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

NE2003/3338/F – Removal of condition no.6 of planning permission MH92/1564 – Approved 25<sup>th</sup> February 2004

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

##### Statutory Consultations

4.1 None required.

##### Internal Council Advice

4.2 The Engineering and Transportation Officer recommends a condition to retain turning facilities within the service yard.

4.3 The Chief Conservation Officer raises no objections subject to details of the screen to be attached to the gate.

4.4 The Environmental Health and Trading Standards Officer raises no objection subject to a condition which sets timescale to the use of the delivery yard.

#### **5. Representations**

5.1 Ledbury Town Council recommend approval.

5.2 The Campaign to Protect Rural England comments as follows: 'In our view the storage of trolleys in the service yard would add to the present noise and disturbance to neighbours. The trolleys would also obstruct the movement of vehicles and this in turn would add to noise disturbance. The proposal to put screens on the gates would not we think be an effective answer to preserving the issue of amenities because of necessity the gates will be open much of the times to permit the movement of vehicles. We therefore ask the Council to refuse this application.'

5.3 Six letters of objection have been received the main planning points raised are:

- a) The condition was put in place to protect neighbours of Somerfield from excessive noise and it should be retained.
- b) We already suffer from excessive noise levels and this will only increase the situation.
- c) The removal of the condition would lead to increases in noise levels and unsightliness in the yard.
- d) Somerfield made the original application knowing that it would be located within a residential area and they should abide by the conditions originally granted.

5.4 The applicant's agent has submitted the following information:

- a) In order to comply with the spirit of this condition the store has arranged for service trolleys to be uplifted and removed from site on a direct basis each day. This prevents any accumulation of service trolleys in the yard, but a limited number are kept overnight following a delivery until their removal the following day.
- b) It is impossible and unreasonable for Somerfield to comply with this requirement and not to be able to use the service yard for the purpose it was designed. The yard is well screened by a high brick wall.
- c) The service yard area has to be used to accommodate the storage of some service trolleys. The entrance area to the service yard at present is the only point of visibility from the highway. It is proposed to attach a screen to the gate, which will obscure views from the highway into the yard and from dwellings facing the service area on New Street.

5.5 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 condition was imposed in the interest of Environmental Health and to protect the residential amenities of nearby neighbours.
- 6.2 The Environmental Health and Trading Standards Officer has fully assessed the proposal and considers that use of the service yard for the storage of the service trolleys is acceptable provided their movement is controlled by the time constraints attached to the service yard. He does not consider that noise generated by the movement of the trolleys and their associated storage after emptying is sufficient to warrant a noise nuisance and as such there are no objections to the removal of the condition.
- 6.3 Although the yard is enclosed by a high wall there are dwellings which have views into the yard from their first floor. The ad-hoc storage which presently takes place is not visually attractive but a condition which limits the area would enable stricter control. Concern has also been raised as to the uneven surface of the delivery yard causing the cages to rattle when being moved. Again a condition requiring an improved surface treatment would assist in this situation.

- 6.4 Use of the service yard for delivery vehicles is already controlled by time conditions of 7am to 6pm Monday to Friday and 7am to 1pm on Saturdays with use allowed on Bank or Public Holidays. A similar condition will be recommended in line with the Environmental Health and Trading Standards Officer’s comments.
- 6.5 Regarding a screen to the gates, although this would only prevent views into the delivery yard when the gates are closed this again is considered to be as improvement on the present situation and a condition will be recommended.
- 6.6 Accordingly it is considered that with the improvements to be conditioned, relating to the area to be allocated and marked out for external storage, improved surface treatment, time constraints and screen on gates that the proposal is acceptable.

**RECOMMENDATION**

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

- 1 - Within one month of the date of this permission the area to be used for the storage of trolleys, including improved surface treatment, shall be submitted for approval in writing by the Local Planning Authority and the area permanently marked out within one month of approval of the details. The area shall thereafter be maintained to ensure compliance with this condition.**

**Reason: To ensure suitable turning facilities for vehicles are retained and to protect the amenity of adjoining residents.**

- 2 - There shall be no other outside storage within the service yard other than the area identified under condition 1 above.**

**Reason: To ensure suitable turning facilities for vehicles are retained and to protect the amenity of adjoining residents.**

- 3 - Details of the screen to be attached to the gates shall be submitted for approval in writing of the Local Planning Authority within one month and the screen erected within one month of the date of approval.**

**Reason: In order to protect the visual amenity of the area.**

- 4 - There shall be no use of the service yard outside the hours of 7 am to 6 pm Monday to Friday, 7 am to 1pm Saturdays and not at anytime on Sundays, Bank or Public Holidays.**

**Reason: In order to protect the residential amenity of adjoining residents.**

**Informative:**

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

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.