

**13 DCSE2004/3641/F - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A NEW GARAGE WITH SHOP AND CAFE. CANOPY WITH PUMPS AND UNDERGROUND TANKS, DAF-Y-NANT GARAGE, WHITCHURCH, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6DW**

**For: Mr. & Mrs. Hamze per Mr. Price, Ty-Angles, Llangrove, Ross-on-Wye, Herefordshire, HR9 6EZ**

**Date Received: 18th October, 2004      Ward: Kerne Bridge      Grid Ref: 54528, 17093**

**Expiry Date: 13th December, 2004**

Local Member:      Councillor Mrs. R.F. Lincoln

## **1. Site Description and Proposal**

- 1.1 This site, located to the south west of Whitchurch, flanks the southern side of the A40 trunk road. The site now vacant was last used as a petrol station with shop and diner. The single storey buildings, petrol pumps and canopy are still in place and are situated at the western end of the site. The rest of the site being a large car park area with two existing vehicle accesses onto the Trunk Road and two accesses onto the Class III road at the rear.
- 1.2 There is a small industrial estate adjoining the site on the western side and a bungalow to the east. There are fields directly to the south of the site and a field and a dwelling to the north.
- 1.3 The proposal is to demolish the existing structures on site and build a new petrol station, shop and cafe in roughly the same part of the site. The proposed building will be metal panelling on a brick plinth with a metal sheeted pitched roof. The proposed building will be slightly higher than the existing buildings on site.

## **2. Policies**

### **2.1 Planning Policy Guidance**

- |       |   |  |
|-------|---|--|
| PPG.1 | - | General Principles                     |
| PPS.7 | - | Sustainable Development in Rural Areas |

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

- |              |   |                                     |
|--------------|---|-------------------------------------|
| Policy CTC.1 | - | Areas of Outstanding Natural Beauty |
| Policy CTC.2 | - | Areas of Great Landscape Value      |
| Policy CTC.9 | - | Development Requirements            |

### **2.3 South Herefordshire District Local Plan**

- |             |   |                                     |
|-------------|---|-------------------------------------|
| Policy GD.1 | - | General Development Criteria        |
| Policy C.1  | - | Development within Open Countryside |

Policy C.5	-	Development within Area of Outstanding Natural Beauty
Policy C.8	-	Development within Area of Great Landscape Value
Policy C.44	-	Flooding
Policy T.3	-	Highway Safety Requirements

#### 2.4 Herefordshire Unitary Development Plan (Revised Deposit Draft)

Policy S.2	-	Development Requirements
Policy DR.1	-	Design
Policy DR.7	-	Flood Risk
Policy DR.10	-	Contaminated Land
Policy LA.1	-	Areas of Outstanding Natural Beauty

### 3. Planning History

3.1	SH970151PF	Retention of portacabin for use as roadside diner until revised scheme for permanent building is implemented	-	Refused 19.03.97
	SH971116PF	Change of use from storage to café of existing structure at rear and adjoining garage	-	Planning Permission 08.12.97

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 The Environment Agency objects to the proposal on the grounds that it is not accompanied by a flood risk assessment and the site is located within a high risk flood zone. In addition, the site may also be contaminated due to nature of the previous use and therefore a desk study should be carried out to identify possible land contamination.
- 4.2 The Highways Agency has no objection to the application and does not propose to direct refusal.
- 4.3 The Ramblers Association observe:

“That public footpath WC103 is already blocked by existing buildings. No objection to proposed diversion of footpath. Notices warning drivers and pedestrians of risk. A proper standard of footpath be provided.

#### Internal Council Advice

- 4.4 The Traffic Manager recommends that any permission includes certain conditions. In addition, Public footpath WC103 runs across the proposed development site and proposed new building lies across line of footpath and therefore a public diversion order is required. The applicants have applied to divert the path.

Concern that the route of the diverted path will pass behind car parking area on west side of site and also that the proposed route will join road (C1251) at southern boundary of site where there is currently a vehicle access.

The footpath was not included in the side road orders when the A40 dual carriageway was built in 1950s. Consequently the footpath is little used. Currently involved in informal pre-order consultations with local Ramblers Association.

- 4.5 The Head of Environmental Health and Trading Standards has offered advice regarding health and safety, residential amenity aspects and also recommended certain conditions be imposed on any planning permission in order to protect residential amenity during the construction and afterwards. Also the noise from the car wash should not be an issue.

## 5. Representations

- 5.1 The applicants' agent observes:

- the applicants have submitted an application in September 2004 to the Council for a Public Path Order to divert line of the existing public footpath across site
- the car parking area at eastern end of site will not be used as an overnight lorry park
- no objections to comments of the Council's Petroleum and Explosives Officer
- will carry out desk top contaminated land study and flood risk assessment if required
- will be height restriction to parking outside shop and will provide CCTV installation as per recommendations of Petroleum and Explosives Officer
- the use of the existing underground tanks will be discontinued
- will comply with comments of Council's Environmental Health Officer
- a survey of the noise from car wash shows that it will be completely reduced before it reaches site boundary
- a desk top contaminated land survey has been received from the applicants
- the flood risk assessment has been undertaken and the results will be submitted as soon as possible.

- 5.2 The Parish Council observe:

"The site has been an eyesore for many years and we look forward to it being tidied up. Entrance and exit need clear markings. Double yellow lines suggested on old A40."

- 5.3 There have been five letters of representation expressing objections or concern from:

Mr. & Mrs. K. G. Burford, Daf-y-Nant Bungalow, Whitchurch, Ross-on-Wye, HR9 6DW  
B. Evans & M R Oxford, Sandyway House, Sandyway Lane, Whitchurch, HR9 6DN  
Mr. A. Dunn, Oak House, Sandyway Lane, Whitchurch, HR9 6DN  
Mr. & Mrs. S. K. Sheikh, Old Pound Cottage, Whitchurch, HR9 6DW  
E. Sanger, Llynellen Cottage, Great Doward, Ross-on-Wye, HR9 6BP

- writer's bungalow not shown on drawings
- wind blows petrol fumes from existing petrol pumps. The proposed pumps will be closer to writer's house causing a danger
- applicants have to get public footpath removed
- would not want lorries parking overnight on car park
- would like drop kerb near writer's hedge taken away
- the Highways let previous owner to do what he liked

- the fuel tank will be located near to footpath. Will there be a wall/barrier as people could drop cigarette end
- would like back closed off. Perhaps a height bar (goal post style) suitable only for emergency vehicles and cars only. Perhaps then a safer public footpath could be provided
- repositioning of fuel pumps could bring heavy vehicles to use rear road. Fuel pumps should be nearer to A40.
- no indication how rear boundary is to be delineated
- access onto rear road should be for local traffic and emergency vehicles only. Traffic calming measures needed
- large fuel tankers filling repositioned tanks near to dwellings could heighten noise and pollution levels
- no usage of area to east for overnight parking of lorries. Such usage has been witnessed over the years
- the application should be rejected as it stands, and any other proposal must restrict entry and exit of lorries via rear Class III road
- any lighting should be deflected from intruding into nearby properties.

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

## **6. Officers Appraisal**

- 6.1 The main issues relate to the visual appearance, size and scale of the development, its effect on the landscape and the residential amenities of neighbouring dwellings, highway safety, noise, health and safety and flooding. The most relevant policies are GD.1, C.5 and T.3 of the Local Plan and Policies CTC.1 and CTC.9 of the Structure Plan.
- 6.2 From a visual point of view the proposed development in terms of its size and design is considered to be acceptable and a significant improvement on the existing buildings/structures on site which have become a bit of an eyesore. There will be no adverse overlooking or loss of light, etc. of neighbouring properties as a result of this development. In addition, the proposed development will not adversely affect the visual amenities of the surrounding landscape which is designated as an Area of Outstanding Natural Beauty and Area of Great Landscape Value.
- 6.3 The vehicular access arrangements are proposed to remain as existing and are considered to be acceptable. The Council's Traffic Manager and the Highways Agency have no objections to the proposed development.
- 6.4 The Head of Environmental Health and Trading Standards has made certain observations/comments which the applicants intend to comply with. There are no objections to the proposed development but certain standard conditions are recommended to be imposed on any permission. Also he is satisfied that any noise from the proposed car wash will not be an issue with respect to its effect on neighbouring dwellings etc. In addition, the owners/applicants have confirmed that no lorries will be allowed to park on site overnight.
- 6.5 There is an existing public footpath which runs through the site, i.e. from east to west, the line of which runs through the existing buildings on site. However the applicants have applied to divert the footpath to run through the site along the western boundary near to the front and rear vehicular accesses on that side.

- 6.6 The Environment Agency require a flood risk assessment to be submitted as the site lies within a defined flood zone. Also due to the nature of the existing use they consider that a Desk Study to identify possible contamination of the land also be undertaken and submitted for consideration. As a result the Desk Study has been undertaken and submitted and the flood risk assessment has also been undertaken but has yet to be submitted. It is not anticipated that significant problems will arise as a result of these assessments/studies.
- 6.7 The proposed development is therefore considered to be acceptable and will be a significant improvement on the existing situation. Provided the Environment Agency are satisfied with the results of the surveys referred to in Section 6.6 then planning permission can be granted for this development. Therefore it is recommended that subject to there being no objection from the Environment Agency to the aforementioned surveys, that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission for this development subject to certain conditions considered necessary by the officer.

## **RECOMMENDATION**

**That subject to there being no objection from the Environment Agency to the flood risk assessment and contaminated land desk study, that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any additional conditions considered necessary by officers:**

**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. A07 (Development in accordance with approved plans)**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.**

**3. B01 (Samples of external materials)**

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

**4. Before any work commences on site details of the colours intended for the car wash, i.e. frame and brushes, shall first be submitted to and be subject to the prior written approval of the local planning authority.**

**Reason: In the interests of visual amenity.**

**5. 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.**

6. During the demolition and construction phase, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside of the following times, without prior consent from the local planning authority:

Monday - Friday 07.30am - 06.00pm,  
Saturday 8.00am - 1.00pm  
nor at any time on Sundays, Bank or Public Holidays

Reason: To protect the amenity of local residents

7. No materials or substances shall be incinerated within the application site during the demolition and construction phase.

Reason: To safeguard residential amenity and prevent pollution.

8. All machinery and plant shall be operated and maintained in accordance with BS5228: 1984 Noise Control of Construction and Open Sites.

Reason: To safeguard residential amenity.

9. The car wash shall only operate between the hours of 07.00 to 22.00 unless otherwise first agreed in writing by the local planning authority.

Reason: To protect the residential amenities of nearby dwellings.

10. There shall be no deliveries to the site before 07.00 and after 22.00 unless otherwise first agreed in writing by the local planning authority.

Reason: To protect the residential amenities of nearby dwellings.

11. No lorries shall be parked overnight within the site.

Reason: To protect the residential amenities of nearby properties.

12. The existing underground petrol tanks shall cease to be used when the development hereby approved is first brought into use unless otherwise first agreed in writing by the local planning authority.

Reason: In the interests of safety.

13. F32 (Details of floodlighting/external lighting)

Reason: To safeguard local amenities.

14. F35 (Details of shields to prevent light pollution)

Reason: To minimise light overspill and to protect the amenity of neighbouring properties.

15. G04 (Landscaping scheme (general))

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

16. G05 (Implementation of landscaping scheme (general))

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

17. G01 (Details of boundary treatments)

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

Informative(s):

- 1. The Council's Petroleum and Explosives Officer advises that the new petrol tanks must be double-skinned with an approved tank gauging system and suitable overfill prevention device. Further installation/method statements need to be approved by this Department prior to the commencement of any work.
- 2. The public footpath No. WC103 needs to be legally diverted before the new building is erected. The footpath must then remain unobstructed at all times.
- 3. This planning permission does not give any formal approval for the signage shown on the approved drawing, for which separate advertisement consent will be required.
- 4. N15 - Reason(s) for the Grant of Planning Permission

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.