

**11 DCCE2005/0915/F - VARIATION OF CONDITION 2 OF PLANNING PERMISSION HC/970294/PF/E TO ALLOW THE SALE OF FURTHER GOODS UNIT A2, BROOK RETAIL PARK, HEREFORD****For: MacArthur Wilson per White Young Green,  
Ropemaker Court, 12, Lower Park Row, Bristol, BS1  
5BN****Date Received: 21st March, 2005****Ward: Central****Grid Ref: 51671, 40365****Expiry Date: 16th May, 2005**

Local Member: Councillor D.J. Fleet

**1. Site Description and Proposal**

1.1 This application seeks planning permission for a change of use to Unit A2 on the Brook Retail Park. The Brook Retail Park is located to the north east of the central area of Hereford City Centre on the eastern side of Commercial Street. The railway forms the northern boundary with a Kentucky Fried Chicken fast food outlet found to the south. The site is located in an area designated for large scale retail development in the Hereford Local Plan, though this is now slightly less relevant as the site has been developed in accordance with this allocation. The land is not designated within the emerging Herefordshire Unitary Development Plan (Revised Deposit Draft) and as such is 'white land' where proposals should be considered on their specific merits. The unit forms part of a complex of four units which are currently in A1 use as defined by the Town and Country Planning (Use Classes Order) 1987 (as amended 2005). These four units are, however, significantly restricted by condition attached to the permission to control the range of goods that may be sold from the premises. Unit A, of which the application forms one half, is subject to a condition which precludes the sales of the following:

1. Food and drink to be consumed off the premises;
2. Clothing and footwear;
3. Cutlery, crockery, and glassware;
4. Jewellery, clocks and watches;
5. Toys, camping and travel goods;
6. Books, audio and visual recordings, and stationary (except office related);
7. Medical goods, cosmetics and toiletries;
8. Sports goods, equipment and clothing;
9. All categories A1 b) to f) of Class A1 except where ancillary (that is use for all or any of the following purposes -
  - (a) for the retail sale of goods other than hot food,
  - (b) as a post office.
  - (c) for the sale of tickets or as a travel agency,
  - (d) for the sale of sandwiches or other cold food for consumption off the premises,
  - (e) for hairdressing,
  - (f) for the direction of funerals.)

- 1.2 The application seeks a change of use to an A1 use with sales of the above unrestricted. The application does, however, include the provision for the unit to be restricted by condition to a catalogue retailer only.

## 2. Policies

### 2.1 Planning Policy Guidance:

- PPS1 - General policy and principles
- PPS6 - Town centres and the rural development

### 2.2 Regional Planning Policy:

- RPG11 - Regional Spatial Strategies

### 2.3 Hereford Local Plan:

- S1 - Role of central shopping area
- S11 - Criteria for large scale retail development
- S12 - Land for large scale retail development

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

- S1 - Sustainable development
- S2 - Development requirements
- TCR1 - Central shopping and commercial areas
- TCR2 - Vitality and viability
- TCR9 - Large scale retail and leisure development outside central shopping and commercial areas

## 3. Planning History

- 3.1 HC97/0292/PF/E - Erection of two buildings for Class A1, one building for Class A1 non-food retail and a building sub-divided for Class A1 food and Class A1 non-food with ancillary works. Approved 11th September, 1997.
- 3.2 HC94/0072/PF - Erection of retail food store including 2 no. concessionary shops. Erection of building for the A1 retail with ancillary office and ancillary works. Approved 3rd February, 1995.
- 3.3 HC95/0134/PF - Development of site for industrial units and new warehouse. Refused 24th August, 1995 (Appeal dismissed 12th November, 1996).

## 4. Consultation Summary

### Statutory Consultations

- 4.1 None.

### Internal Council Advice

- 4.2 Traffic Manager: No objections.

- 4.3 Forward Planning Manager: Objection on the basis that in terms of the sequential test the Herefordshire Unitary Development Plan identifies the Eign Gate Regeneration Area for A1 type development. Granting permission for the variation of conditions on the Brook Retail Park would be contrary to the Plans retail policies and the Edgar Street Grid proposals.

## 5. Representations

- 5.1 Hereford City Council: Objection 'on account of the potential detrimental effect on established retail units in the city centre'.

## 6. Officers Appraisal

- 6.1 This application essentially seeks permission for the partial lifting of the restrictive conditions currently imposed on the Brook Retail Park. Policy S1 of the Hereford Local Plan seeks to protect the Central Shopping Area in order to ensure its long term vitality and viability. The application site falls outside of the designated Central Shopping Area and effectively represents a new large scale retail proposal. The Council seeks to encourage such proposals in locations so as to complement the overall function of the city centre, rather than compete with it. Policy S11 of the Plan advises that large scale retail development outside of the city centre should:

- (a) be easily and safely accessible to the general public by means of public and private transport and be sited so as to encourage economy in fuel consumption and permit a choice of means of transport;
- (b) be acceptable in terms of its effect on the local highway network, access, circulation, and the provision of car parking and operational space;
- (c) not seriously affect the vitality and viability of any nearby town centre as a whole (including Hereford City Centre), either by itself or in conjunction with other recent and proposed retail development;
- (d) not normally be sited in the open countryside or on land allocated for residential or employment development, having regard to the supply of land for residential development and to Policy E6 in the case of employment land;
- (e) be environmentally acceptable and not lead to unacceptable adverse effects on the amenity of neighbouring properties and uses, particularly in respect of residential and other sensitive uses; and
- (f) be in accordance with other relevant policies of this plan, particularly in respect of such matters as design, the provision of infrastructure, landscaping, safety and security, and provision for cyclists and pedestrians.

Turning to the Herefordshire Unitary Development Plan, Policies TCR1 and TCR2 effectively take a similar stance and seek to ensure that the Central Shopping and Commercial Area remain the focus for retail activity. The Brook Retail Park also falls outside of this area.

- 6.2 PPS6 advises that where need can be demonstrated then a sequential test to selecting sites should be used. In addition, any proposal is required to demonstrate the likely effect upon city centre vitality and viability. This stance is echoed in both the adopted and emerging Development Plans, although it should be pointed out that the Hereford Local Plan pre-dates PPS6.
- 6.3 The Herefordshire Unitary Development Plan (Revised Deposit Draft) identifies a need for increased provision in city centre comparison and retail warehousing floorspace.

This application seeks permission for an A1 unit for comparison goods sales, for which there is an identified need for a further 14-16,00 square metres of floorspace over the plan period. It therefore seems reasonable to conclude that a general need for further floorspace such as that proposed has been recognised and accepted. With need accepted the sequential test must be applied. The Herefordshire Unitary Development Plan (Revised Deposit Draft) identifies the Eign Gate Regeneration Area for A1 type retail development, this area being located within the Central Shopping and Commercial Area. This would therefore be the preferred sequential site. It is of further note that Policy TCR9 identifies Holmer Road for large scale retail developments.

- 6.4 In consideration of Policy TCR9 relating to Holmer Road, it is considered that this policy is geared specifically towards retail warehousing. This proposal does not fall into this category with the proposal clearly seeking the sale of comparison goods as found in the city centre. It is of further note that this location is further away from the Central Shopping and Commercial Area than the Brook Retail Park, making its location less desirable from the sequential test perspective
- 6.5 In relation to the sequential test and the Herefordshire Unitary Development Plan the Eign Gate Regeneration Area is considered to be the preferred location. However, this is a long-term scheme contained within a yet to be approved Development Plan. It is further the case that the Eign Gate Regeneration Area is unable to meet the needs of this application in the here and now. PPS6 specifies that the sequential test should first consider:

'locations in appropriate existing centres where suitable sites or buildings for conversion are, or are likely to become, available within the development plan document period'.

As the Herefordshire Unitary Development Plan is not the adopted plan and the current Hereford Local Plan does not identify the Eign Gate Regeneration Area, it is considered that this area cannot be reasonably assessed as the preferred location to meet demand on the grounds that it is not currently available and there is not yet certainty that it will become so. On this basis it is considered that alternative locations can be considered.

- 6.6 In light of the above, it must be concluded that the most appropriate way of assessing this application at this time is to consider the sequentially most appropriate location currently available or likely to become available in a reasonable time frame. When this test is applied it is considered that the more sequentially appropriate location is in fact the Brook Retail Park.
- 6.7 The impact upon the vitality and viability of the existing city centre area is a further key consideration in this application. A retail impact assessment was presented with this application. A retail impact assessment considers the potential impact of a proposal upon the city centre. In this case, the assessment considered the potential impact of the lifting of the existing restrictive condition, principally in relation to turnover. The report suggests that the impact upon the city will be minimal, equating to an overall reduction in the turnover of the city centre of 1.3%. This figure is based on the trade draw of this unit being deducted from the city centre turnover. Put simply, the predicted turnover of this unit with the restrictive condition removed is deducted from the turnover of the city centre. The associated drop in the city centre turnover is a crude indication of the potential impact of this application upon the vitality and viability of the city centre. Such a calculation is relatively crude as it does not consider the

'one-stop-shop' phenomenon which can occur in edge of centre locations. This phenomenon essentially consists of shoppers being able to visit an out of centre unit, carry out all their shopping, and leave without entering the city centre area. Such activity can have a disproportionate impact upon the city centre beyond that suggested in the turnover calculation outlined above. However, as a subsequent submission from the applicant advises, the calculation does not consider the potential draw of the unit. It is acknowledged that the potential exists for this unit to act as a pull factor for Hereford, leading to increased visits to the city centre area based on visitors drawn by this unit. The validity of this claim will be related to the locational factors of the site, as well as, the specific occupier of the unit. It is of note that the site is located between the railway station and town, is found in close proximity to the County Bus Station, and is located at the end of a relatively weak retail street. From a sustainability perspective the location is considered appropriate and it is suggested that there is potential for linked trips (trips encompassing a visit to the unit and the city centre) to be generated by this unit.

- 6.8 The factual demonstration of impact upon vitality and viability is notoriously difficult, however, the site does have location advantages that cannot be ignored. A further consideration must be the fact that a need has been identified. The demonstration of need is considered to reflect the fact that the town centre can accommodate additional floorspace without detriment to its vitality and viability, subject to an appropriate location. In this instance it is considered that this location is the most appropriate in the current policy environment. Finally the restriction of this unit to a catalogue retailer must be considered. It is considered that such a restrictive condition will reduce the potential exposure of the Central Shopping and Commercial Area. A catalogue retailer, even one which is commonplace on the high street, will not be utilised by shoppers in the same manner as a traditional shop. It is considered that this will therefore reduce the potential direct competition of this unit with city centre comparison shopping and as such reduce its potential impact upon the vitality and viability of it.
- 6.9 The objections of the Forward Planning Manager are acknowledged and it is conceded that this scheme represents a proposal that is not in accordance with the provisions or objectives of the emerging Herefordshire Unitary Development Plan (Revised Deposit Draft). However, the proposal is considered to be in accordance with the adopted Hereford Local Plan and in the context of this plan is considered to represent an acceptable form of development in an appropriate location. The potential concerns over the impact of it upon the future spatial planning strategy for the area are recognised but the status of the emerging Development Plan, together with the current inability to confirm a likely available site in the Eign Gate Regeneration Area, are of note. On balance it is considered that this is inadequate defence at this time on which to resist this development.

## **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 A06 (Development in accordance with approved plans)**

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

- 3 The application site premises shall be occupied by a catalogue showroom retailer (defined for the purposes of interpreting this condition as a retailer selling a wider range of goods selected by the visiting public primarily from a catalogue and supplied to them fully packaged). In the event of the site premises ceasing to be occupied by a catalogue showroom retailer, it shall revert to the restrictions currently placed on it by virtue of the conditions associated with planning permission hC97/0294/PF/E. In any event the premises shall not be used for the sale of fashion clothing or footwear.

Reason: In order that the occupancy of this unit can be controlled in the interests of the vitality and viability of the central shopping area of Hereford.

- 4 The permission hereby granted is an amendment to planning permission HC97/0294/PF/E and, otherwise than is expressly altered by this permission, the conditions attached thereto remain.

Reason: For the avoidance of doubt.

**Informative:**

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

Decision: .....

Notes: .....

.....

**Background Papers**

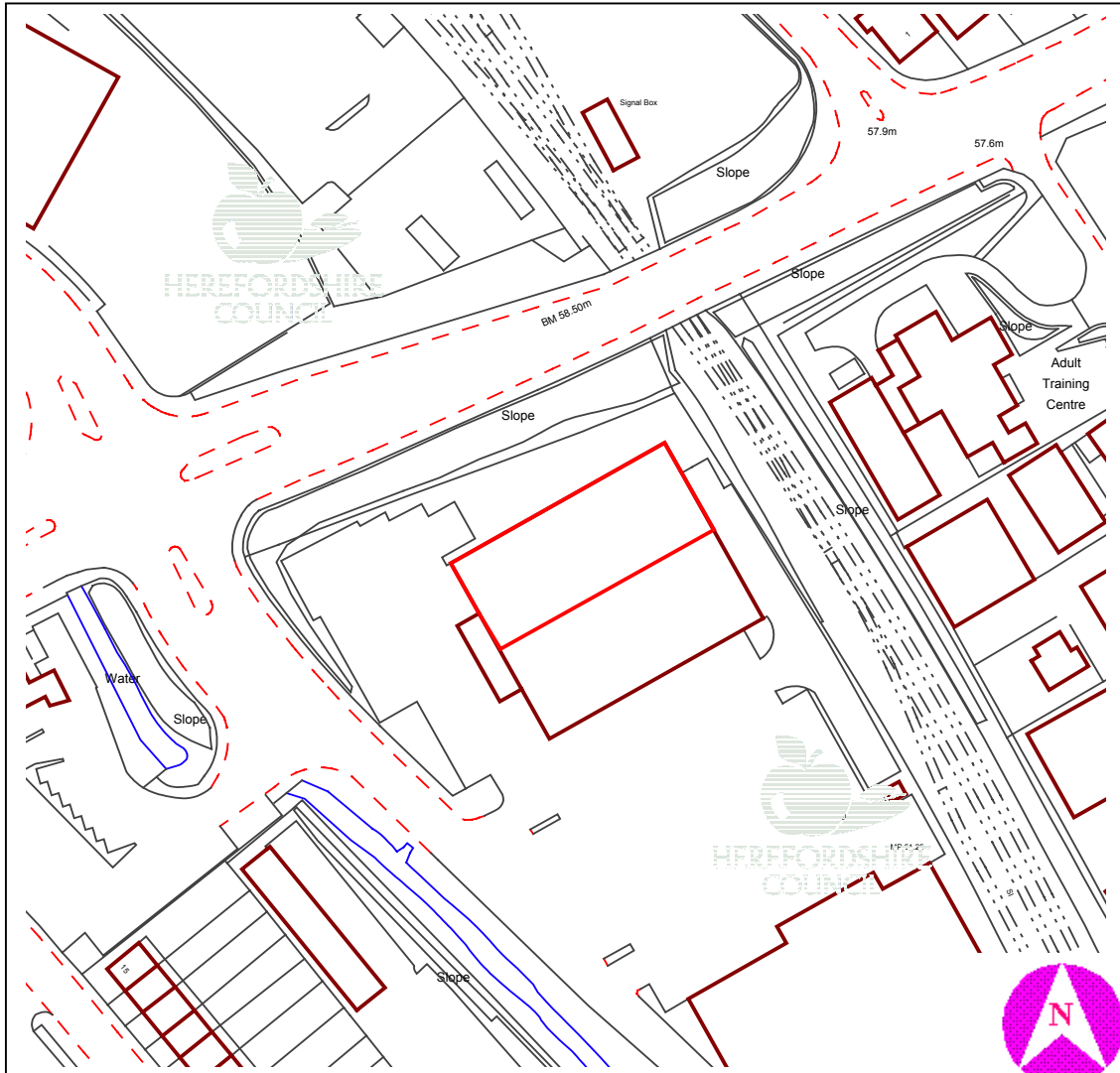
Internal departmental consultation replies.



HEREFORDSHIRE  
COUNCIL

Planning Services

Blueschool House  
Blueschool Street  
Hereford  
HR1 2ZB



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** DCCE2005/0915/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Unit A2, Brook Retail Park, Hereford

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005