

12 DCCE2005/2619/F - CHANGE OF USE OF GROUND FLOOR FROM CLASS A1 (RETAIL) TO CLASS A5 (TAKEAWAY) AT 2 HOLME LACY ROAD, HEREFORD, HEREFORDSHIRE, HR2 6BY**For: The Co-operative Group, per Pegasus Planning Group, 2-10 Kings Parade Mews, Clifton, Bristol, BS8 2RE****Date Received: 11th August 2005 Ward: St. Martins & Hinton Grid Ref: 50751, 38611****Expiry Date: 6th October 2005**

Local Members: Councillors Mrs. W.U. Atfield; A.C.R. Chappell and R. Preece

INTRODUCTION

The application was reported to the Central Area Planning Sub-Committee on 19th October, 2005 when it was recommended for approval. Notwithstanding the recommendation the Sub-Committee resolved that it was minded to refuse permission on the grounds of the potentially adverse effects on highway safety and residential amenity.

The Head of Planning Services has considered the proposal and notes that both the Highways Agency and the Traffic Manager do not object to the application. In the light of these views he refers the application on the grounds that the highway safety reason for refusal, in particular, does not provide a substantive basis on which to mount a robust defence of the decision in the event that it is the subject of appeal.

1. Site Description and Proposal

1.1 The site is located south of Holme Lacy Road next to the junction with Ross Road (A49), south of the city. Adjoining the site to the east are semi-detached residential properties which front onto Holme Lacy Road and immediately to the west is The Broadleys Public House. A two-storey hipped roof building occupies the site which historically, was occupied as two semi-detached properties. To the front and side is a single-storey flat roofed extension with a hardsurfaced parking area in front. The lawful and most recent use of the ground floor is a convenience store with the first floor being occupied as a self-contained flat. The convenience store closed approximately two years ago and the ground floor has been vacant since this time. The site falls within the established residential area as designated in the Hereford Local Plan and Herefordshire Unitary Development Plan (Revised Deposit Draft).

1.2 Planning permission is sought for the change of use of the ground floor from the existing lawful (A1) retail use to a Chinese takeaway (A5).

2. Policies

ENV14 – Design
ENV18 – External Lighting
H21 – Compatibility of Non-Residential Uses

Herefordshire Unitary Development Plan (Revised Deposit Draft)

S2 – Development Requirements
S6 – Transport
DR2 – Land Use and Activity
DR3 – Movement
DR4 – Environment
TCR15 – Hot Food Takeaway Outlets
T11 – Parking Provision

3. Planning History

HC95/0481/PF - Proposed internal alterations and new external staircase/access to first floor flat - Approved 29 February 1996

4. Consultation Summary

- 4.1 Highways Agency – “On the basis that this site currently benefits from an A1 Retail Use the Highways Agency considers that this application is unlikely to generate more daily vehicle movements than the existing use. That being said we are concerned that takeaway restaurants by their very nature generate more trips in the evening and some of these trips may fall within peak times. However, it is difficult to ascertain whether these trips would exceed those being made to the existing retail outlet during peak times.

The Highways advice note submitted by the applicant sets out improvements to the local road network (keep clear road markings) and on-site infrastructure (formalising parking arrangements). The Highways Agency consider these improvements will assist in the free flow of traffic visiting the site and on balance that the proposed development is unlikely to be of detriment to the safe and free flow of traffic on the trunk road”.

Internal Council Advice

- 4.2 Traffic Manager – “Having read the information and proposals contained in the Transport Statement from Peter Brett Associates dated 19/9/2005 in support of the planning application, they have addressed the concerns of turning movements of cars being blocked by lanes of queuing traffic at the approach to the lights. This is obviously of benefit over the current situation which would exist if the A1 use was resurrected. The fact that cars turn across two lanes is a possible concern, but they have provided a wide KEEP CLEAR area which will give good visibility for approaching traffic, and is an improvement over the current situation.

The takeaway will not be open in the mornings, therefore there will be no traffic generation or turning traffic in the morning peak, a further benefit over the permitted A1 use.

Whether or not there is intensification for A5 over A1 use in the evening peak is unsubstantiable as suitable information from TRICS for the two use classes (A1 and take away) is not available.

I am slightly concerned at the amount of car parking provision proposed, which does not meet our standards and may possibly lead to indiscriminate parking/waiting on

road on the approach to the junction, to the detriment of highway safety. However, I suspect that if people see the car park is full, they will not bother to stop as it means they will have a lengthy wait and will go elsewhere. It is also likely that a lot of customers may be pubgoers on foot stopping on the way home. A similar overflow parking situation could (and is probably more likely to) occur with the permitted A1 use, and in that case could occur in both morning and evening peak hours.

Therefore on balance of the evidence submitted and having carefully considered the application in the light of these proposals, I consider that there are not grounds for refusal on highway grounds, particularly as the application is for a change of use. It must be remembered that the site is currently vacant and therefore at present a true picture of its current permitted use is not available”.

- 4.3 Head of Environmental Health and Trading Standards - No objection in principle but in the interest of the amenity of neighbourhood, no external flues or extraction equipment shall be installed at premises without prior written approval of the local planning authority. The applicant shall provide details including the specification of suitable silencer to be installed and predicted noise levels at the nearest dwelling.

5. Representations

- 5.1 Hereford City Council - No objection to the application providing opening hours are limited in order to protect adjacent residential amenities.

- 5.2 Five letters of objection have been received from numbers 4, 6, 8 and 12 Holme Lacy Road and a further letter from a nearby resident. The main points raised are:

1. There will be extra traffic crossing the footpath at a busy junction to the detriment of pedestrian safety
2. Parking and access will be dangerous, there have already been numerous accidents in the locality.
3. Potential problems with litter. Litter was a problem when the premises was used as a shop and the takeaway use is likely to lead to even greater problems with litter.
4. The takeaway will want to open late at night causing general noise and disruption to amenity and anti-social behaviour.
5. Smells and fumes will travel from the site to adjacent properties affecting the use of the property and enjoyment of gardens.
6. Development will devalue nearby properties.

- 5.3 Supporting information including a highway technical note has been provided by the applicant's agents which will be referred to in the Officers Appraisal.

- 5.4 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 proposal is for the change of use from the A1 Retail to A5 Takeaway. A new extraction system is also proposed to the side of the property adjacent to the public house and the hard surfaced area to the front is to be rationalised to create designated parking spaces. The proposal would lead to the loss of the A1 use most recently a local convenience store although the building has not been used for this purpose for approximately two years. However, the property is not protected under the Local Plan or UDP as local shopping provision and therefore there is no objection, in principle, to

the change of use of the premises. The principle issues for consideration under this application are therefore impact of the new use on the amenity of the area and highway safety.

Impact on Amenity

- 6.2 The site is bordered to the east by residential properties with further properties to the south. Their amenity could be affected by both noise and general activity associated with the use and also possible smells of fumes arising from the food preparation. The site has a lawful A1 Retail Use, which has no opening hours restrictions. Therefore the premises could re-open as a shop until late at night as well as during the day. The site is also adjacent to a very busy road, which in itself will be a source of noise and vehicular activity and properties to the south lie adjacent to The Broadleys Public House. This, again, would be a source of potential noise and activity at unsocial hours. This is particularly the case as the public house has applied for a later license under the new licensing regime.
- 6.3 Environmental Health raise no objection to the application in principle subject to a condition concerning the extraction unit to be installed and the control of noise from this unit. In this regard the design of modern extraction systems is such that any odours will be limited and will not be noticeable for properties in the locality.
- 6.4 Therefore, whilst there will be increased pedestrian and vehicular activity to and from the site late at night, given the neighbouring land uses and subject to a condition controlling opening hours and extraction system, the likely impact of the use on the residential amenity of the area is considered acceptable. Notwithstanding this conclusion, it is considered reasonable for a higher and more robust boundary to be installed between the site and nearest residential property and this can be controlled by condition.
- 6.5 Since the application was reported to the Central Area Planning Sub-Committee the application has been revised by the applicant agreeing to an earlier closing time of 11.30pm throughout the week thereby reducing further the adverse affect on the amenity of the property next door.

Highway Safety

- 6.6 The site is poorly situated in terms of its proximity to the Holme Lacy Road/Ross Road signalised junction and the standard of the access and accessibility of the site particularly for vehicles travelling from the west is presently substandard and could be a potential hazard. However, this issue must be considered against a fallback position of a lawful planning use of the site for retail purposes. Therefore a reason for refusal could only be substantiated on highway grounds if there was likely to be intensification in the use of the access.
- 6.7 Whilst both the Highways Agency and Traffic Manager have concerns with suitability of the access and its proximity and relationship to the Holme Lacy Road/Ross Road junction, neither formally objects to the application. The agents have provided a traffic assessment identifying that the possible vehicle generation to and from the site, overall, is likely to be less than the previous retail use and peaks in vehicular activity to and from the site would be outside of the main congestion times i.e. evening. This view is not fully supported by the Traffic Manager but on balance and having regard to the existing use refusal on the grounds of highway safety is not recommended.

- 6.8 The proposed parking serving the development is to be formalised to avoid indiscriminate parking on the highway or pavement and also to ensure that a vehicle can enter and leave the site in a forward gear. Allied with this, the applicant's propose 'Keep Clear' marking at the point of access onto Holme Lacy Road, which will reduce obstruction from queuing vehicles and enable right turn manoeuvres both into and out of the site. Therefore, a combination of all these factors and having regard to the professional advice of the Highways Agency and Traffic Manager, it is not considered that the application can be refused on highway grounds or a subsequent appeal defended.
- 6.9 Since the application was reported to the Central Area Planning Sub-Committee on 19th October the Agent for the application has been investigating further the ground floor layout of the shop unit with the intention of submitting a revised layout to reduce to a minimum the amount of floorspace devoted to Use Class A5 Use. In this way the total car parking requirement for the scheme can be reduced to match the parking spaces available to the parking standards in the Hereford Local Plan. A verbal update will be made at the meeting.
- 6.10 Subject to conditions requiring improvements to the parking and access, cycle storage, provision of additional litter bins and restrictions on opening hours the proposal is considered acceptable in accordance with Policy H21 of Hereford City Local Plan and TCR15 of the Unitary Development Plan.

RECOMMENDATION

That subject to the receipt of an amended floor plan/layout restricting the floorspace of the takeaway and an appropriate condition controlling the approved floor area, planning permission be approved 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 E04 (Restriction on hours of opening)(11.00 am and 11.30 pm on any day)

Reason: In the interests of the amenities of existing residential property in the locality.

4 H15 (Turning and parking: change of use - commercial)

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

5 H17 (Junction improvement/off site works)

Reason: To ensure the safe and free flow of traffic on the highway.

6 H29 (Secure cycle parking provision)

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.

7 F39 (Scheme of refuse storage)

Reason: In the interests of amenity.

8 Notwithstanding the existing fence, prior to commencement of the use hereby permitted a fence or wall to a minimum height of 2 metres above the level of the highest ground level adjacent to the enclosure shall be erected/constructed along the eastern boundary of the site. Details of the enclosure shall be submitted for the approval in writing of the local planning authority prior to the commencement of the use. The enclosure shall be installed in accordance with the agreed details.

Reason: To safeguard the amenity of the adjacent residential properties.

9 Notwithstanding the submitted details, no external flues or extractor equipment shall be installed at the premises without the prior written approval of the local planning authority. Prior to the commencement of the use, the applicant shall submit details for the approval in writing by the local planning authority of the proposed extraction equipment including the specification of a suitable silencer to be installed and predicted noise levels at the nearest dwelling. The extraction equipment and appropriate noise attenuation should be installed in accordance with the agreed details prior to commencement of the use hereby permitted.

Reason: In the interests of the amenity of the area.

INFORMATIVES:

1 Notwithstanding the Town and Country Planning (Control of Advertisements) Regulations 1992, details of any proposed advertisements shall be submitted for the approval in writing of the local planning authority prior to commencement of the use hereby permitted. The advertisement shall be installed in accordance with the approved details.

2 N15 – Reason(s) for the Grant of PP/LBC/CAC

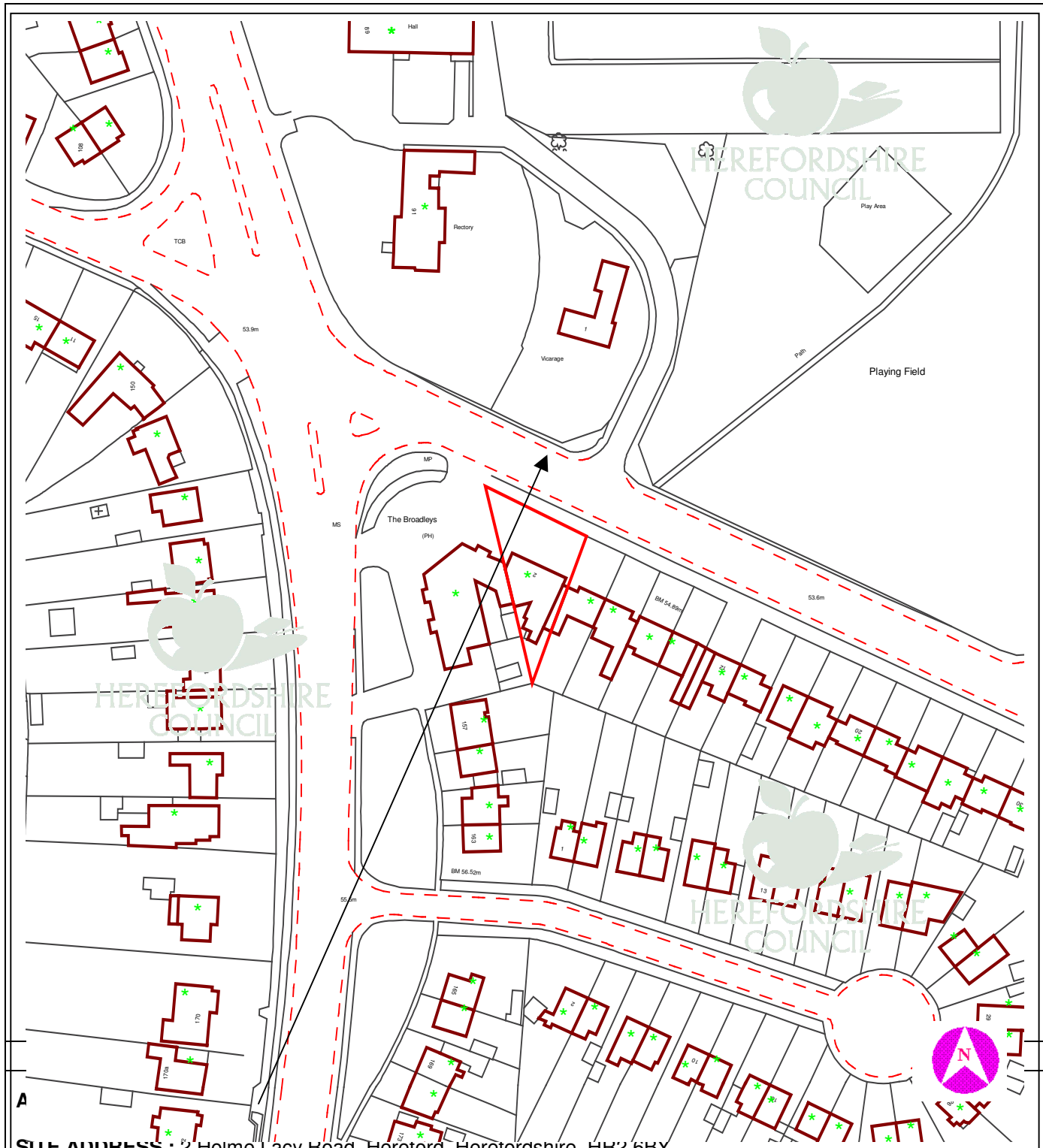
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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