

DCCE2006/0765/F – CHANGE OF USE FROM B1 LIGHT INDUSTRIAL TO MIXED USE COMPRISING A RETAIL SHOWROOM, STORAGE AND OFFICES UNIT 4, WHITESTONE BUSINESS PARK, WHITESTONE, HFD HR1 3SE

For: HH & PH Collins Properties, Collins Engineering Limited, Unit 5 Westwood Industrial Estate, Pontrilas, Hereford HR2 0EL

Date Received: 6th March, 2006 **Ward: Hagley**

Grid Ref: 56638, 42415

Expiry Date: 1st May, 2006

Local Member: Councillor R.M. Wilson

INTRODUCTION

This application was considered by the Central Area Planning Sub-Committee at its meeting on 3rd May 2006 when Members resolved to grant permission contrary to the recommendation of the report.

The application is effectively a retrospective application for the change of use of a purpose-built industrial unit to a use which is, predominantly, a retail showroom within the meaning of use class A.1.

The use is the kind of retail showroom which should more properly be located on a retail park as is normal for kitchen, bathroom and tile showrooms. Furthermore this site was specifically developed to provide employment within the class B uses in this rural location. The proposal is therefore directly contrary to established and emerging planning policies both in terms of both inappropriate retail development and the loss of valuable employment land.

The Sub-Committee also heard that the Council's Economic Development Officer objected to the planning application.

There are two significant policy principles at stake in this case: the inappropriate siting of a retail showroom for which there is no established need on this site and which, by virtue of the normal sequential test, should be located within an urban area preferably in an established retail location, and secondly the loss of a valuable employment site to non-employment use.

The specific development plan policy framework is set out in Policy E5 of the Herefordshire Unitary Development Plan (Revised Deposit Draft) which seeks to safeguard existing employment land not allowing non-employment uses, such as the retail use proposed, unless there would be substantial environmental benefits or where the site in question is unsuitable for continuing employment use; and Policy TCR9, which, in line with Government guidance set out in PPS6 – Planning for Town Centres, promotes a sustainable approach to retail development, requiring a sequential approach to site selection in favour of sites within or on the edge of Central Shopping and Commercial Areas and away from isolated locations

where the choice of modes of transport for customers and staff are limited. The policy expressly states that retail development of the type proposed will not be permitted on land within open countryside or land allocated or safeguarded for another use.

Policy E.5 and supporting text are as follows:

Safeguarding employment land and buildings

- 6.4.33 It is important that both the existing and proposed supply of land and buildings for employment uses is protected for such purposes if the Plan is to successfully maintain and enhance employment opportunities throughout the County. Employment land and premises will be reserved for uses within Part B of the Use Classes Order, or on appropriate sites, other acceptable sui generis employment uses which would be otherwise be difficult to locate, such as motor car display and sales, tool hire depots, builders merchants and recycling facilities. The loss of employment land and premises to non-employment uses such as retail or housing will generally be resisted. The Plan makes suitable provision for these uses elsewhere, either through allocation or policy, so that the use of employment land for these purposes is unnecessary.
- 6.4.34 It is particularly important to avoid the introduction of Part A retail uses within established employment areas and industrial estates. The primary role of these areas is to cater for the land requirements of Part B employment uses. It is vital to maintain the type of business environment which will attract the necessary private sector investment, and retail development may have the effect of limiting the types of industrial development that would subsequently proceed. Retail uses will only be acceptable where they are ancillary to a principal employment-related use.

Policy E5 Safeguarding employment land and buildings

Proposals which would result in the loss of existing, permitted or proposed employment land and buildings to non-employment uses will only be permitted where:

- 1. There would be substantial benefits to residential or other amenity in allowing alternative forms of development, and the site or premises concerned can be shown to be unsuitable for other employment uses, including consideration of mitigation measures. Where such proposals are permitted, an alternative site should be found for the relocation of any existing businesses; or**
- 2. In the case of proposals incorporating elements of retail use, this is restricted to a minor or incidental activity associated with an otherwise acceptable Part B or other employment generating use.**

Policy TCR9 is as follows:-

Large scale retail and leisure development outside central shopping and commercial areas

Proposals for large scale retail and leisure development outside the central shopping and commercial areas of Hereford and the market towns will only be permitted where:

1. it can be demonstrated that there is both a quantitative and qualitative need for the development in the location proposed, with a retail need for both comparison and convenience goods shown if both are proposed within the same development;
2. it can be demonstrated that a sequential approach has been taken to site selection, and that land and buildings in each of the following categories have been thoroughly assessed in turn and found to be not available before considering less central locations:
 - a. within central shopping and commercial areas
 - b. edge-of-centre locations
 - c. out-of-centre locations which are well served by public transport;
3. the proposal is compatible with and does not undermine the Plan's central shopping and commercial area strategy or the overall Plan strategy;
4. the proposal will not seriously harm the vitality and viability of existing central shopping and commercial areas, either by itself or in conjunction with other recent and proposed retail development;
5. the site is easily and safely accessible to customers and staff by a choice of modes of transport and will not lead to an increase in the use of the private car; and
6. the proposal is not sited within open countryside or on land allocated or safeguarded for another use.

The UDP Inspector recommends no significant changes to either policy, which should therefore be given considerable weight.

In view of the fact that the decision of the Sub-Committee to approve this application is in direct conflict with both retail and employment development plan policies this application has been referred to this Committee for further consideration.

1. Site Description and Proposal

- 1.1 The site (Unit 4) is located within Whitestone Business Park and accessed off the C1130, just south of the A4103 in the parish of Withington. The building the subject of the application is of a standard steel frame single storey construction clad and roofed with box profile sheeting. Whitestone Business Park is allocated and protected within the South Herefordshire District Local Plan and Deposit Draft Unitary Development Plan for Employment Land with the remainder of the land surrounding the estate predominantly used agriculturally.
- 1.2 Planning permission was approved on the 12th October, 2000 for the erection of a building to be used for light industrial purposes (use class B1). The applicant (Elite Bathrooms and Tiles) have recently taken occupation of the building with the majority of the floor area now being used as a retail showroom. Furthermore, condition 17 of the 2000 planning permission states that there should be no retail or wholesale sales from the building direct to visiting members of the public. This application is in effect for the change of use of the building to enable its use as a retail showroom and storage which if approved, would also then supersede the existing permission and the conditions attached to that permission. The application has been brought to Committee at the request of the Ward Councillor.

2. Policies

2.1 South Herefordshire District Local Plan:

- GD1 - General development criteria
- ED4 - Safeguard existing employment premises
- RT2 - Development outside/adjacent to Hereford City
- T.1A - Environmental sustainability and transport

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft):

- S1 - Sustainable development
- S4 - Employment
- S5 - Town centres and retail
- DR2 - Land use and activity
- DR3 - Movement
- E5 - Safeguarding employment land and buildings
- TCR2 - Vitality and viability
- TCR9 - Large scale retail and leisure development outside central shopping and commercial areas
- TCR25 - Land for retail warehousing

3. Planning History

- 3.1 CE2000/0281/F - Erection of industrial unit (B1 Use Class). Approved 12th October, 2000.

4. Consultation Summary

Statutory Consultations

- 4.1 None

Internal Council Advice

- 4.2 Traffic Manager: No objection subject to the provision of secure cycle storage.
- 4.3 Head of Economic Development: Comments awaited.

5. Representations

- 5.1 Bartestree Parish Council: No objection.
- 5.2 Withington Parish Council: No comments.
- 5.3 One letter of objection has been received from the Campaign to Protect Rural England (CPRE). The main points raised are:
 - The proposal is contrary to the development plan policy for maintaining a suitable supply of industrial land and buildings
 - Unit 4 is in the heart of a non retail business park. The site is very rural without any public transport links. CPRE feel it is important to maintain a distinction between

business and retail parks and given its location away from the city, Whitestone is not suitable for a retail park

- The access and local road network is not suitable for the additional volume of traffic that a retail use would generate.

5.4 Supporting statements have been provided by both the applicants and their agent which will be referred to in the Officer's Appraisal.

6. Officers Appraisal

6.1 The lawful use of the building in question is for B1 (Light Industrial) purposes. The planning permission approved on 12th October, 2000 goes a stage further by removing any opportunity for retail or wholesale sales direct to visiting members of the public from the building. The applicants (Elite Bathrooms and Tiles) offer a complete service from design and sale to installation. The majority of the floor area (68%) is used as a retail display area for viewing completed bathrooms and ancillary products such as tiles and bathroom cabinets. The remainder of the building is used for the storage of goods for distribution (28%) and offices (4%). As such the building is now being used primarily for retail purposes with some storage and ancillary offices. Therefore, the current use of the building is not in accordance with the approved planning permission and the retail sales from the premises to visiting members of the public is in breach of Condition 17 of the planning permission.

6.2 Policy E5 of the Unitary Development Plan states that proposals that will result in the loss of existing permitted or proposed employment land or buildings to non-employment uses (employment is defined as light industrial, heavy industry and storage and distribution) will only be permitted where:

1. There will be substantive benefit to residential or other amenity allowing alternative forms of development and the site or premises concerned can be shown to be unsuitable for other employment uses including consideration of mitigation measures; or
2. In the cases of proposals incorporating elements of retail use, this is restricted to a minor or incidental activity associated with an otherwise acceptable Part B or employment generating use.

Para 6.4.34 of the UDP also states that: "It is particularly important to avoid the introduction of Part A Retail Uses within established employment areas and industrial estates. The primary role of these areas is to cater for the land requirements for Part B employment uses....."

6.3 The current use is therefore contrary to Employment Policy 5, which seeks to protect industrial buildings for industrial purposes. Policy E5 does permit minor or incidental retail usage but this, in floor area terms, must be ancillary to the primary industrial use of the building. Ancillary is normally defined as up to 10% of the gross floor area.

6.4 Policy TCR25R of the UDP identifies Holmer Road as being the most sequentially preferable site for large scale retail warehousing as it will compliment existing businesses in the locality facilitating linked trips and can also be accessed via public transport, cycling and walking. The current use would be classed as large scale retail warehousing in floor area terms. Reference is made to an existing business operating from Whitestone which incorporates retail sales (Browns Furniture). The retail showroom was approved as part of the planning permission for the building but in floor

area terms, the showroom area is very much ancillary to the primary use of the building for general and light industrial purposes.

- 6.5 The primary source of income for the business is the fitting of new bathrooms and the income derived from on site sales collected by customers is no more than around 3.5% of the total turnover. However, this does not deviate from the fact that the primary use of the building is for retail purposes whether that be for the sale of goods collected by the public or the sale of goods delivered and fitted by Elite Bathrooms.
- 6.6 The applicants have been searching for some time for larger premises and have inspected premises at Barrs Court Road Trading Estate, Hereford Trade Park, Rotherwas, and Sweetmans Yard. For various reasons these have not met their needs. It is notable, however, that all of the units looked at are also buildings or land protected for industrial purposes and therefore would not be acceptable in planning terms. Premises such as unit 2 at Brook Retail Park, which has a lawful retail warehouse permission and has been vacant for around 18 months, would in planning terms be a more acceptable location. In fact, this unit at Brook Retail Park was last occupied by Tiles 'R' Us who operate in a similar manner to Elite Bathrooms.
- 6.7 There is no doubt that the unit now occupied by the Elite Bathrooms offers many benefits to them as a business and they have also undertaken considerable expenditure in relocating to Whitestone. The applicants and their agent state the business already employs 17 people (direct and indirect labour) for fitting bathrooms and this is expected to increase by 10 to 12 this year. The majority of the business also appears to emanate from outside of the city and therefore an out of town location would appear to meet their customer base. Furthermore, it is stated that Elite Bathrooms do not operate in the same way as a normal retail warehouse would do in so much as there is a low foot fall of visiting members of the public to the business. Finally, it is suggested that a personal permission would be satisfactory to the applicants and the landowner.
- 6.8 The ultimate objection to the proposal lies with the fact that it is contrary to the Development Plan Policies, which seek to protect industrial buildings and land for industrial purposes (class B uses). A personal permission would ensure that the current change of use, whilst being contrary to policy, was not repeated by a future occupier but this scenario could be repeated too often. Several requests are received by the local planning authority every week from local business seeking to use industrial buildings or land for non-industrial purposes and it is considered that granting permission in this case would make it very difficult resist similar proposals at Whitestone Business Park and other safeguarded Employment Sites.
- 6.9 This retrospective application is contrary to the adopted and Deposit Draft Development Plan policies and for the reasons set out above, is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1 The proposal would result in the loss of an existing industrial building to a primarily retail use which represents an unsustainable form of development outside the Central Shopping and Commercial Area or other sequentially preferable sites within the city. As such the development is contrary to Policies GD1, ED4 and RT2 of the South Herefordshire District Local Plan and Policies**

S1, S4, S5, DR2, DR3, E4, TCR9 and TCR25 of the Herefordshire Unitary Development Plan (Revised Deposit Draft).

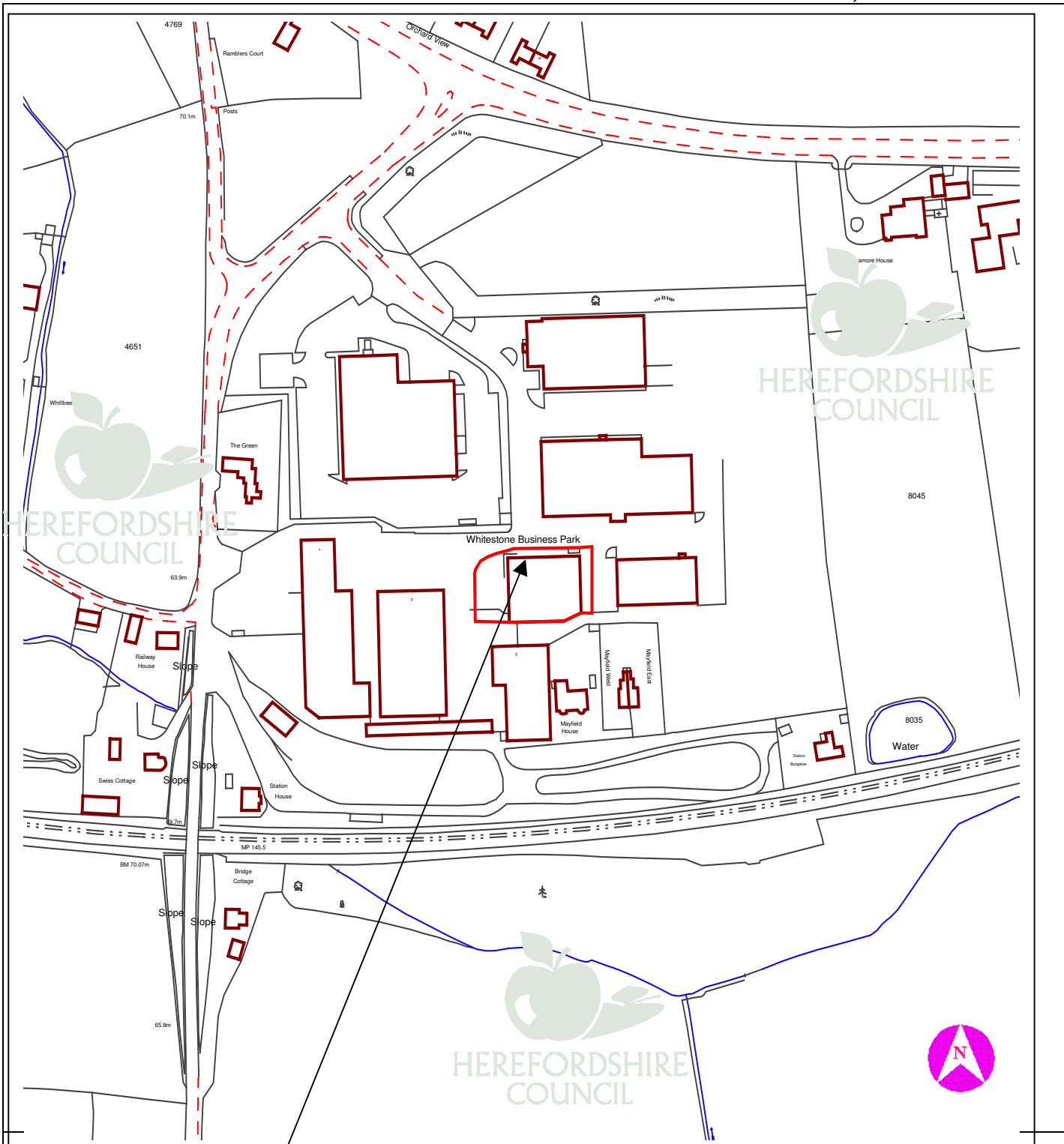
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2006/0765/F

SCALE : 1 : 2500

SITE ADDRESS : Unit 4, Whitestone Business Park, Whitestone, Hfd HR1 3SE

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Para 6.4.34 of the UDP also states that: "It is particularly important to avoid the introduction of Part A Retail Uses within established employment areas and industrial estates. The primary role of these areas is to cater for the land requirements for Part B employment uses....."

- 6.12 The current use is therefore contrary to Employment Policy 5, which seeks to protect industrial buildings for industrial purposes. Policy E5 does permit minor or incidental retail usage but this, in floor area terms, must be ancillary to the primary industrial use of the building. Ancillary is normally defined as up to 10% of the gross floor area.
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- 6.17 The ultimate objection to the proposal lies with the fact that it is contrary to the Development Plan Policies, which seek to protect industrial buildings and land for industrial purposes (class B uses). A personal permission would ensure that the current change of use, whilst being contrary to policy, was not repeated by a future occupier but this scenario could be repeated too often. Several requests are received by the local planning authority every week from local business seeking to use industrial buildings or land for non-industrial purposes and it is considered that granting permission in this case would make it very difficult resist similar proposals at Whitestone Business Park and other safeguarded Employment Sites.

6.18 This retrospective application is contrary to the adopted and Deposit Draft Development Plan policies and for the reasons set out above, is recommended for refusal.

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Decision:

Notes:

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Background Papers

Internal departmental consultation replies.