

07/10/0027

MR J BENDALL

**ERECTION OF BUILDING TO PROVIDE ANCILLARY OFFICE ACCOMMODATION ASSOCIATED WITH CURRENT EMPLOYMENT USE AT TREFUSIS LODGE, TONE GREEN, BRADFORD ON TONE (RETENTION OF DEVELOPMENT ALREADY UNDERTAKEN)**

Grid Reference: 316712.123142

Retention of Building/Works etc.

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The development, to provide ancillary accommodation to the existing commercial/industrial uses on the site is considered to be an appropriate development, whereby the provision of a new, replacement building has provided the opportunity for an improvement to the visual amenities of the area, and new benefits to wildlife. The development would be safe from flooding and would not be detrimental to the amenities of other nearby property, the highway network. It complies with Policy S1 and S2 of the Taunton Deane Local Plan and advice contained in Planning Policy Statement 7.

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

- (A1) DrNo P080397-ELX Elevation survey
- (A3) DrNo P08397-FFX First floor measured building survey
- (A3) DrNo P08397-GFX Ground floor measured building survey
- (A4) DrNo P08397-INT-ELX Internal elevation
- (A1) DrNo P08397-3D-SX Topographical Survey
- (A4) DrNo P08397-OSX Ordnance survey
- (A1) DrNo 1051/2310A Site layout plan

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The building hereby permitted shall be used as ancillary office/administrative purposes only for business(es) operating within the portal framed building labelled 'warehouse' on drawing P0837\_3D\_SX.

Reason: Other independent uses would lead to an increased need to travel by private car and a dispersal of activity across the rural area, leading to an unsustainable pattern of development detrimental to the character and appearance of the area, in accordance with Policies S1 and S7 of the

Taunton Deane Local Plan and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review. They would also lead to new independent uses within flood zone 3 (the high risk zone) and the Local Planning Authority considers that there is other land within the borough that could be used to for such purposes which is at a lower risk of flooding, in accordance with Planning Policy Statement 25.

3. Prior to the construction of the raised timber walkway required by condition (4) the flood storage compensation scheme detailed on drawings 1051/2310a and 1051/2310b shall be fully completed in accordance with those details.

Reason: To ensure that the development does not increase off-site flood risk in accordance with Planning Policy Statement 25.

4. Unless within 3 months of the date of this decision the raised timber walkway indicated on drawings 1051/2310a and 1051/2310 has been constructed in accordance with further details that shall previously have been submitted to and agreed in writing by the Local Planning Authority the use of the site hereby permitted shall cease until such time as a scheme is approved and implemented.

Reason: To ensure that a safe access and egress to/from the development is available in times of flooding, in accordance with Planning Policy Statement 25.

5. The building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- i. Within 6 months of the date of this permission, details of a strategy to protect barn owls shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Greena Ecological Consultancy's submitted report, dated 22 March 2010 and include:

- Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
- Details of the timing of works to avoid periods of work when the species could be harmed by disturbance;
- Measures for the retention and replacement and enhancement of places of rest for the species.

Once approved the works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority and thereafter the resting places and agreed accesses for barn owls shall be permanently maintained.

- ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed

period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: To enhance the opportunities for wildlife at the site on the basis that habitat may have previously been lost, in accordance with Planning Policy Statement 9.

6. The building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

i. (a) Within three months of the date of this permission, a landscaping scheme, which shall include details of the species, siting and numbers to be planted together with the proposed timing of the works, shall be submitted to and approved in writing by the Local Planning Authority.

(b) The scheme shall be completely carried out in accordance with the approved timing.

(c) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

7. The building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 6 months of

the date of failure to meet any one of the requirements set out in (i) to (iv) below:

i. Within 12 months of the date of this permission, the following works shall have been completed, in accordance with a schedule of works that shall previously have been submitted to and agreed in writing with the Local Planning Authority:

- Application of 'Yorkshire' hit & miss timber boarding applied to the external walls of the main portal frame building;
- Restoration/refurbishment of the remaining stone boundary wall and reduction of the northern access to accept pedestrian traffic only;
- Permanent removal of the existing, redundant, dilapidated mobile home.

ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: To secure improvements to the visual amenities of the area, which contribute to the justification for the development, in accordance with Policy S1 of the Taunton Deane Local Plan.

8. There shall be no retail sales from the site.

Reason: Such sales would lead to an increased need to travel by private car and a dispersal of activity across the rural area, leading to an unsustainable pattern of development detrimental to the character and appearance of the area, in accordance with Policies S1 and S7 of the Taunton Deane Local Plan and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review.

Notes for compliance

## **PROPOSAL**

This application seeks full planning permission for the erection of a building to provide ancillary office/administrative accommodation for the associated industrial unit already on site. Permission is sought in retrospect and follows the service of an enforcement notice (see below).

The building sits on the site of a former warehouse/barn. It is two-storey, finished with stone/rendered walls under a pantile roof. Windows are made from timber. The

building provides a significant amount of floor space and is currently occupied as the administrative base for an internet-based distribution company, which uses part of the main building for storage.

## **SITE DESCRIPTION AND HISTORY**

The site is situated in the open countryside and comprises a range of two-storey barns, including that subject to the application, an attached currently open building and a modern single steel portal-framed former agricultural building. The site is accessed via a hard surfaced access direct from the Class 3 public highway to the south, which leads to a hard surfaced yard area between buildings.

The site is flat and long views are available to east. A mature tree line partially obscures the site from the west. Along the northwest boundary of the site is a pond, which is part of the former Grand Western Canal. The entire site is indicated on flood maps as being within flood zone 3.

In 1992, permission was granted for the use of the portal framed building for the manufacture of timber sheds/garden furniture. Subsequently (also 1992) the portal framed building was permitted to become an open B1 workshop and in 1996, part of the covered yard was permitted to be used for general storage.

In 2000 permission was refused for the conversion of a building that formerly stood on the site of the current application building to a dwelling. Subsequently, that building was partially demolished and a new building erected on the site. The Local Planning Authority were concerned that the building took the appearance of a new dwelling, with large windows and proportions that resembled a converted barn (although the building is almost entirely a newly built structure). The building was, however, not being used as permanent residential accommodation and the site owner was using part of it as his own office and attempting to let part of it to other business operations.

The Local Planning Authority was concerned that any use (be that commercial or residential) of the building would be unacceptable due to the site's isolated location in the open countryside, remote from the closest village (Bradford on Tone), which does not benefit from significant facilities (shops/schools etc.), and was accessed by relatively poor roads with no footways. The site is also identified as being within Flood Zone 3 (the highest risk zone), where any new development should be resisted if there are other sites available on land at lower risk of flooding. In light of these considerations, the Planning Committee subsequently authorised the service of an enforcement notice (dated 16<sup>th</sup> October 2008) requiring the complete removal of the building. An appeal was subsequently lodged against the notice.

At the appeal, the notice was upheld, the Inspector agreeing with the Council that the site was an inappropriate location for new business development, being in an isolated location, poorly served by public transport and at risk of flooding. However, he did allow modification to the time in which the appellant (the current applicant) was required to undertake the demolition and restoration of the site. In his reasoning, the Inspector was quite clear that he was allowing the extension of time (to 12 months) in order that the appellant and the Council could try to find a mutually acceptable use for the building, as evidenced from the following excerpts of his decision letter:

*“It would be wasteful to require the building to be demolished if an acceptable, policy-compliant use could be found for it. It would send the wrong messages if the appellant were to be seen to benefit from not complying with planning requirements. However, in concluding that no possible use of the building would be acceptable it is not clear from their representations that the council took the advice in PPS7 fully into account. Moreover, whilst I have concluded that the location of the building is unsuited to the use that the appellant is suggesting, it may be that a low key use, perhaps more clearly connected to other activities on the site, would generate fewer trips and make the lack of public transport less of an objection.*

*Increasing the period for compliance would allow this possibility to be investigated. It may also allow the flood risk situation to be more fully assessed, which could reduce another of the concerns I have regarding the suitability of the location. In addition, the appellant could consider the merits of entering into a legally binding undertaking to improve the overall appearance of the site which, though beneficial, I have concluded could not be achieved through the imposition of conditions on the deemed application.*

*All of these matters could affect the overall balance of considerations. That is a long way from indicating that I am satisfied that a satisfactory solution could be found that would allow the appeal building to be retained...[but issues] could be investigated to see whether a scheme that would accord more closely with the advice in PPS7 could be achieved”.*

The application is before committee because the recommended granting of permission is in the face of the previous resolution of the Planning Committee to take enforcement action requiring the demolition of the building.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*BRADFORD ON TONE PARISH COUNCIL* – Supports the grant of planning permission. The Parish Council would support any conditions made by the Inspector or Taunton Deane Borough Council which would enforce the building to remain as ancillary office accommodation rather than become a residence.

*SCC - TRANSPORT DEVELOPMENT GROUP* – It would appear that this application is effectively for the retention of the building that was the subject of the appeal, to provide ancillary office accommodation in association with the existing employment use that is already located on the site.

It has been stated in the Design and Access Statement under point, 1.2.4, that:

*“this latest proposal is not intended as a stand alone accommodation for wholly new enterprises but as strictly ancillary office and staff amenity uses associated with the existing business on the site. Such Ancillary use would not create significant additional traffic over and above the potential of the existing authorised uses. Furthermore the site’s proximity to Bradford on Tone allows the genuine opportunity for employees to walk and/or cycle work”.*

There is no guarantee that the employees are or will live locally i/e in Bradford on Tone, nor can it be conditioned that this is the case.

The building is located outside the Development Boundary Limit of Bradford on Tone and is accessed via Tone Green, which is a classified un-numbered highway that is subject to the national speed limit. There are no footways or street lighting between the site and the centre of Bradford on Tone, which is, located approximately 0.6km from the site.

Although Bradford on Tone has a development limit, it is considered to be unsustainable in transport terms as it does not accommodate adequate services and facilities, such as, education, employment, health, retail and leisure, and has a limited bus service.

The nearest bus stop is located at the White Horse public house in Bradford on Tone, which offers two limited services. The no. 9a service operates on Tuesdays and Fridays with one service in the morning and one in the afternoon. The no. 610 service operates on Thursdays only with one service in the morning and one in the afternoon.

Bradford on Tone is approximately 6.5km from the centre of Taunton and 6.0km from the centre of Wellington, which are the nearest major settlements offering significant services and facilities.

As a consequence, of the development being located outside of any development limit, the occupiers/staff/visitors of the development are likely to be dependant on private vehicles for most of their daily needs.

It must be a matter for the Local Planning Authority to consider whether or not this is a suitable location for such a development as the site lies outside any recognised development boundaries and is considered unsustainable in purely transport terms.

In terms of the detail, It is essential that all new development is served by a suitable means of access, irrespective of whether it is an existing point of access to the public highway or a new one being created, and that it can accommodate the traffic associated with the use and any increase in traffic that is likely to result from the development significant or not, in the interests of highway safety for all road users.

If the LPA are minded to grant consent, it is essential that sufficient onsite parking and turning is provided within the site commensurate with the use but not to the detriment of any existing use, and given that the proposal is located in what is considered an unsustainable area in transport terms I would recommend the maximum provision be applied in this location, which is 1 space per 30m squared of floor space.

No parking/turning layout has been provided setting out the existing and proposed layout given the additional use. The LPA may wish to request this additional information so that it can be provided and maintained in perpetuity.

Visibility to the east of the access is restricted by a roadside boundary hedge and not commensurate with traffic and I would seek that this is improved if the LPA are minded to grant consent and if this land is within the Applicant's control to enable improvements to be made. As part of a previous application on this site,

07/00/0016, visibility splays based on co-ordinates of 2.4m x 60m to the nearside carriageway edge in the Bradford on Tone direction and as far as the Bridge to the west.

*HERITAGE AND LANDSCAPE OFFICER* – No wider landscape impacts.

*NATURE CONSERVATION & RESERVES OFFICERS* – I visited the site in January 2009 when the likely presence of a barn owl and crevice dwelling bats was highlighted in the adjoining partially renovated barn. Greena Ecological Consultancy carried out a bat and bird survey of the adjoining partially converted barn, which is continuous with the converted barn, in March 2010. An emergence survey was carried out in August 2010. Findings of the surveys are as follows:

Bats - Both surveys found that there was no presence of bats, but it is recommended that appropriate mitigation was undertaken in the event of further development works to the building.

Birds - Site evidence suggested that a barn owl used the barn as a feeding site. The surveyor was unclear if the barn owl nested in gaps between the old thatch and the nw roof covering, but recommended that a barn owl box be installed. Pigeons nest in the barn and small birds night roost in the crevices.

The development has already taken place, but in accordance with PPS9, I would like to see wildlife accommodated, and so suggest that a barn owl box be provided in the old barn. The surveyors recommendations should be implemented and conditions imposed to ensure this.

*ENVIRONMENT AGENCY* – Awaited.

## **Representations**

None received.

## **PLANNING POLICIES**

EN28 - TDBCLP - Development and Flood Risk,  
S2 - TDBCLP - Design,  
S7 - TDBCLP - Outside Settlement,  
S1 - TDBCLP - General Requirements,  
STR1 - Sustainable Development,  
STR6 - Development Outside Towns, Rural Centres and Villages,  
PPS7 - Sustainable Development in Rural Areas,  
PPS25 - Development and Flood Risk,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the consideration of this application is the principle of the development and flooding. That is, whether the use proposed accords with planning policy and will not lead to an increase in the need to travel by private car. The impact upon the visual amenities of the area must also be considered as must the impact on the highway network and wildlife.



## **Principle**

The site is situated in the open countryside, remote from any settlement. It is linked to the closest settlement, Bradford on Tone, by a narrow rural highway that does not have any footways and which offers no public transport opportunities. Bradford-on-Tone itself has very limited facilities and a very poor bus service.

This application seeks to retain the building for use as an ancillary, office building. That is, it would provide office/administrative facilities to a business which occupied the steel portal frame building which sits at the site entrance. Indeed, this is the situation on the ground at the present time, with the occupiers of part of that building using the site for administrative purposes.

The portal framed building itself, benefits from an existing, authorised business use, having been previously used for various industrial/commercial activities. There is, therefore, an authorised use for the site for such purposes and it would not be possible to extinguish that use.

It is clear from a site inspection that the building subject of the application has been finished to an extremely high standard – the quality of workmanship, design and choice of materials is exceptional. However that, in itself, cannot justify its retention, as accepted by the appeal Inspector. Based on the evident quality, it would appear that the building was never intended for some ‘low key, ancillary’ use such as that proposed here. It may even be that part of the building, due to its generous proportions is underused, or indeed, unused in such a use. As such, there could be future pressure for additional uses on the site. However, that is not what is currently applied for. The use sought is for an ancillary purpose and, whilst not clearly sanctioning such a use, the Inspector effectively commented that he thought such a use may be compliant with both Planning Policy Statement 7 and policies in the Taunton Deane Local Plan. Indeed, if the use of the building is purely ancillary, then arguments about the potential increase in traffic and general sustainability credentials of the site carry much less weight. Added to the mix (on the Inspector’s suggestion) are proposals to enhance the biodiversity of the site and its visual appearance, particularly by the cladding (in hit-and-miss timber boarding) of the external faces of the concrete block walls of the portal framed building. It cannot be denied that these alterations would bring about a general improvement to the visual appearance of the site when viewing it from the adjoining public highway. It is considered that these improvements (which can be secured by planning condition) add further weight to the acceptability of the current proposal.

With regard to these matters, it is considered that the proposal does accord with Planning Policy Statement 7 and is acceptable in principle.

## **Visual amenity**

The site is isolated, however, the building subject to the application is not prominent in the surrounding countryside. It is well screened from the adjoining highway to the west and is only visible from the east (on the Bradford on Tone to Oake road), as a small component of an already developed site, where the large, grey roof of the portal frame building takes prominence.

The main visual impact of the site at close range comes from the concrete block walls of the main portal frame building, which are built right against the highway

boundary. The applicants proposal to clad these in timber would certainly soften the overall appearance of the site within the street scene and, as mentioned above, are considered to add weight to the acceptability of the proposal.

In addition, the building itself is clearly designed to a very high standard and the choice of materials and finishes respects the character of the local area.

## **Flooding**

The submitted flood risk assessment indicates that the site is within Flood Zone 3 (the high risk zone) and not the functional floodplain as previously considered. This has come about as a result of detailed level modelling of the site and it is understood that the EA now accept this position (members will be updated at committee). Light industrial uses are identified in PPS25 as being 'low risk' and are acceptable in Flood Zone 3, provided that the sequential test is passed – i.e. there is no other land available at a lower risk of flooding. Now, as successfully argued by the Council in the enforcement notice appeal, the sequential test cannot be passed if the proposal is for an independent business use. However, the proposal is now for an ancillary use and such a use must be located within the confines of the site to which it relates. As such, the sequential test is now considered to be passed.

However, in a flood event, there is potential that the main vehicular access to the site could be blocked by flood water, so the application proposes to construct a raised walkway out of the building to higher ground to the east. It is not considered that such a proposal would result in an unacceptable visual impact and would be seen in the context of the existing buildings. Accordingly, the development is considered to be safe from flooding. At the time of writing, formal comments from the Environment Agency are outstanding and members will be updated with any additional detailed recommendations that they may make.

## **Highways**

The Highway Authority have previously indicated that they would oppose any independent use of the building. In terms of this proposal they have raised some concerns about the location of the site, since the increase in floor space available could lead to some increase in traffic. However, given that the proposal is for ancillary accommodation, this is considered to be limited. It is also considered that there is adequate parking to accommodate any vehicles that may be attracted to the site. The site is large and spacious, and there is no need for the formal demarcation of spaces in this instance.

## **Wildlife**

Surveys have been undertaken to establish the potential of the site for wildlife. It must be acknowledged that the survey was undertaken following the demolition of the old barn and it can never now be established what wildlife habitats the old structure may have contained. However, based upon the current evidence, as confirmed by the Nature Conservation and Reserves Officer, there are no significant wildlife interests on the site. However, in line with PPS9 and in order to secure the overall benefits referred to by the applicant, it is considered that a condition should be imposed to provide an overall enhancement of the site to wildlife, such as the provision of bat and owl boxes in the presently open section of the barn.

## **Conclusions**

It is considered that the proposed ancillary use makes an acceptable use of the building. Being limited to ancillary office/administration accommodation only and not for an independent business or allowing any retail sales direct from the site there should not be any significant increase in traffic over and above the existing authorised use of the site. In light of the Inspectors comments in the previous appeal, it is considered that such a use of the site is acceptable and it is, therefore recommended that planning permission is granted.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.**

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