

46/12/0012

MR F EDNEY

ERECTION OF SIX NO. B1 COMMERCIAL UNITS AND FORMATION OF VEHICULAR ACCESS AT SITE AT FORMER BRICKYARD, HIGHER POOLE, WELLINGTON

Grid Reference: 315058.121855

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal is considered not to have a detrimental impact upon visual or residential amenity nor harm the existing highway network and is therefore considered acceptable and, accordingly, does not conflict with Taunton Deane Core Strategy Policies DM1 (General Requirements), CP8 (Environment) and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review..

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

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

(A3) DrNo 1921-01 location plan
(A3) DrNo 1921-02 site/block/roof plan
(A3) DrNo 1921-03 floor plans
(A3) DrNo 1921-04 units A, B and C proposed elevations
(A3) DrNo 1921-05 Units D and E proposed elevations
(A3) DrNo 1921-06 Unit F
(A3) DrNo 1921-07 indicative site sections

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

3. Prior to their installation, samples and/or details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in

accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the existing building in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4. (i) Prior to its implementation, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
- (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
- (iii) 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.

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 Core Strategy Policy DM1.

5. Prior to the commencement of the development, a 'Measures Only' Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan shall be implemented in accordance with a timetable that shall be agreed as part of the travelplan.

Reason: To ensure a transport choice is provided and to encourage staff to travel to and from work by means other than the private car.

6. Prior to first occupation or first use of the development hereby permitted, secure, covered parking spaces for not less than 2 staff and visitors' bicycles per unit shall be laid out, constructed and drained in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be retained.

Reason: To ensure a transport choice is provided and to encourage staff to travel to and from work by means other than the private car in accordance with the NPPF.

7. The proposed access, including drainage and visibility splays, shall be constructed in accordance with details shown on the submitted plan, drawing number 1921-02, and shall be available for use before first occupation of the development hereby permitted. Once constructed the access shall thereafter

be maintained as such, including that there shall be no obstruction to visibility greater than 900mm above the adjoining carriageway level within the visibility splays indicated.

Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

8. Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 6 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.

Reason: To allow a vehicle to wait off the highway while the gates are opened or closed and thus prevent an obstruction to other vehicles using the highway. In the interests of highway safety in accordance with Policy 49 of the Somerset and ENP Joint Structure Plan Review.

11. No site clearance works or development (or specified operations) shall take place between 1st March and 1st September in any given year without the prior written approval of the Local Planning Authority.

Reason: To ensure that wild birds building or using their nests are protected and the Authority will require evidence that no breeding birds would be adversely affected before giving any approval under this condition bearing in mind that all wild birds, their nests and eggs (with certain exceptions) are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended), in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

12. The development hereby permitted shall not be commenced (including any ground works or site clearance) until the applicant has undertaken a reptile survey of the site carried out at the appropriate time of year. The results of the surveys shall be submitted to and approved in writing by the Local Planning authority before any work commences on site.

If appropriate, the survey should include details of a scheme to avoid harm to any reptiles. Details of the scheme should include:

- Methods for the safe trapping and translocation of any reptiles from areas where they are likely to come to harm from construction activities.
- Identifying refuge or receptor areas for reptiles and providing protection to these area from construction activities.
- Provision of information to all construction personnel about the scheme, including nature conservation and legal implications.

The agreed scheme shall be fully implemented in accordance with the agreed details and timings.

Reason: To ensure the protection of any reptiles that may be present on the site in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

13. The applicant shall undertake all the recommendations made in Country Contracts report dated February 2012.

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.

Reason: To protect wildlife in accordance with Policy CP8 (Environment) of the Taunton Deane Core Strategy and the NPPF.

14. Noise emissions from any part of the premises or land to which this permission refers shall not exceed background levels by more than 3 decibels expressed in terms of an A-Weighted, 2 Min Leq, at any time during the days and times indicated when measured at any point at the facade of any residential or other noise sensitive boundary.

Mon-Fri 0800 hrs to 1800 hrs
Sat 0800 hrs to 1300 hrs

At all other times including Sundays and Bank Holidays, noise emissions shall not be audible when so measured.

Noise emissions having tonal characteristics, e.g. hum, drone, whine etc, shall not exceed background levels at any time, when measured as above.

For the purposes of this permission background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.

Reason: To minimise the impact of the development in accordance with Policy DM1 of the Taunton Deane Core Strategy.

15. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (a) to (c) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment, must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written

report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages.
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants.
- An assessment of the potential risks to
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

b) Submission of Remediation Scheme

If any unacceptable risks are identified as a result of the investigation and assessment referred to in a) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk

assessment must be undertaken in accordance with the requirements of section a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section b), which is subject to the approval in writing of the Local Planning Authority.

e) Verification of remedial works

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by some one in a position to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage b) above).

The verification report and signed statement are subject to the approval in writing of the Local Planning Authority.

f) Long Term Monitoring and Maintenance

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval until the remediation objectives have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policies DM1 of the Taunton Deane Core Strategy and the NPPF.

Notes for compliance

1. Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Section 184 Permit. This must be obtained from the Highway Service Manager at **Burton Place, Taunton, TA1 4DY. Tel No 0845 345 9155.** Application for such a permit should be made at least four weeks before access works are intended to commence.
2. The Applicant is advised that the Highway Service Manager, at Burton Place, Taunton Tel No 0845 345 9155, must be consulted with regard to the required reinstatement of the verge/footway crossing at the access which is to be closed.

3. The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall be fully implemented prior to construction , and thereafter maintained until first occupation.
4. It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.
5. You are advised to consider undertaking a Construction Environmental Management Plan during construction of the site. The plan should include:
 - Construction vehicle movements;
 - Construction operation hours;
 - Construction vehicular routes to and from site;
 - Construction delivery hours;
 - Expected number of construction vehicles per day;
 - Car parking for contractors;
 - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
 - Measures to avoid traffic congestion impacting upon the Strategic Road Network.

PROPOSAL

Planning permission is sought for the erection of the land for 6 commercial units (B1 use). The proposed units each have an internal floor area between 80-90 m2.

The proposal also incorporates the formation of a new access. The existing access will be closed off into the site and a new access provided in the centre of the site with security gates set back 6.0m from the carriageway. A security fence is proposed along the north boundary of the site, set back a distance between 2-3m to allow for landscaping.

A turning area and parking for 19 cars would be provided within the site.

SITE DESCRIPTION AND HISTORY

The context of the site and its environs is that it used to be part of the former brick works and yard. The roadside boundary of the site is delineated by a red brick wall and this is replicated elsewhere along the highway. The original brick works factory has now been separated off into various parcels of land and uses. To the rear (south) of the site is the re-cycling centre. To the front (north) of the site is a row of

terraced brick built properties which presumably were historically workers cottages to the former brick yard. These dwellings remain in residential use.

Planning history

46/88/0001 - Erection of workshop building and siting of portakabin office on land to the west of the site.

46/89/0032 - Use of land for stationing mobile home as office accommodation on land to the south of the site

46/90/0009 - Use of land as a waste disposal transfer station on land to the south of the site.

46/94/0006 - Extension of existing waste skip yard on land to the south west of the site.

46/10/0002 - Formation of access and use of land for storage at former brick yard, Higher Poole, Wellington. Application refused on 7th June 2010. The application was later dismissed at appeal.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - Following comments:

- Site located in Higher Poole on an unclassified highway with a national speed limit.
- Outside of any development limit, likely to result in staff being dependent on private vehicles, a matter for the Local Planning Authority to decide benefit.
- Not previously refused on highway grounds.
- Acceptable visibility splay and entrance gates are set back.
- Parking provision acceptable, with 19 spaces, 2 more than Somerset County Parking Strategy, justified to prevent on street parking. A disabled space should be provided.
- Cycle storage should be provided.
- Turning area acceptable, HGVs not anticipated to visit regularly.
- Recommend conditions

WEST BUCKLAND PARISH COUNCIL - Objects:

- Overdevelopment of the site.
- Detrimental effect on the amenity of the neighbouring properties.
- Access road unsuitable to carry additional vehicle movement that would be created.
- Within 2 miles of the site there is plenty of under utilised business space that has already been developed.
- Potential loss of trees which act as a buffer/screening of existing industrial units behind this site.

LANDSCAPE - Following comments:

- Subject to details of landscaping the proposals are acceptable.

NYNEHEAD PARISH COUNCIL - Objects:

- Accept site is in a residential area; proposed development unacceptable because road access is unsuitable for additional traffic it would generate.
- Road has not been improved to cope with additional traffic arising from development on the road and congestion caused by change in opening hours at waste recycling site.
- No more development should take place until a new access from Chelston estate is provided, as has been proposed in the past.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION - Following comments:

- The application is for B1c light industrial use. The application form does not give any details about the proposed opening hours, the businesses that may be on the site or any plant or equipment that may be used. There are residential properties on the opposite side of the road to the site and there is a mixture of other commercial uses adjacent and in the surrounding area.
- Without any detail of the type of business or equipment on site I can only make general comments regarding noise.
- Planning guidance states that B1c use is one that “can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”.
- This should mean that the businesses on site should be restricted in their type and operation. If any business on the site does cause problems with noise (or other issues) that are in “detriment to the amenity” they would be operating outside the allowed uses at the site.
- With any commercial use there is likely to be some noise from activities on site. This could be restricted by ensuring that they meet the criteria for B1c use. A planning condition could also be used to restrict noise (example below – this is more suitable for controlling noise from plant/equipment on site). There could also be a restriction on the hours of operation.
- The noise from vehicles accessing the site will be audible at the residential properties on the other side of the road at Higher Poole. This is more likely to disturb residents at night and could be reduced by restricting the hours of operation on site.
- Recommend a condition for noise levels outside of specified working hours.

ENVIRONMENTAL PROTECTION - CONTAMINATION - Following comments: -

- Request condition regarding contaminated land.

BIODIVERSITY OFFICER – Following comments:

- Remnant brick walls define the footprint of the former industrial buildings whilst the remainder of the site is covered by ruderal, scrub and grassland habitats.

- The wildlife report found: - no evidence of bats but considered the site to provide limited bat foraging resource; no evidence of badger's activity within site but evidence of a path through a hedge on the opposite side of the road; some nesting potential and foraging for birds; good potential for reptiles.
- Condition recommended re survey for reptile survey, no works during nesting bird season unless agreed and recommendations of submitted survey.

Representations

SIX LETTERS OF OBJECTION raising the following:

- Increase in traffic, road already congested; queues to recycling centre outside of our properties (Higher Poole) as centre sometimes has to close for 20 minutes.
- Unable to park in front of house (Higher Poole).
- Unsafe for lorries turning into site, almost against front of doors to Higher Poole; unable to turn if cars park to front of properties; insufficient room to negotiate safe exit.
- Access for emergency services.
- Highway safety for children due to increase in traffic and closeness to properties at Higher Poole.
- No speed limit along road; vehicles travel very fast when it is not blocked or congested.
- No demand for units; empty units not being used in 13 other locations (list of sites provided by objector).
- No change since previous refusal and appeal.
- Increase in business units, in a residential area, leaving and arriving at different times would cause more disruption.
- Taller buildings than dwellings at Higher Poole, 8.5m high and approx 12m from the nearest property, and would not be screened, unlike Wellington Skips that put up a fence and trees to screen and shield; would impact on outlook, currently we can spot rabbits and birds that will be replaced by a tiny tree and metal.
- Loss of natural light.
- Land acts as a buffer.
- Existing business units are not in direct view.
- Disturbance during construction; many residents work shifts; building process would create alto of noise/waste/dust affecting our lives and health
- Likely security/flood lights would affect properties and occupiers and my daughters sleeping pattern.
- Noise from security alarms.
- Land once used by residents for recreational uses and allotments, no commercial use for over 30 years.
- Trees and shrubs already removed by applicant, removing wildlife that lived there. If application turned done, wildlife may return.
- Land does not form part of the development of Wellington.
- Loss of historic boundary wall, well over 100 years old.
- Negative effect on value of properties.
- No street lights or footpaths making it extremely dangerous for cyclists and pedestrians after dark.

ONE LETTER OF REPRESENTATION raising no observations/comments.

PLANNING POLICIES

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
CP2 - TD CORE STRATEGY - ECONOMY,
CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,
CP8 - TD CORE STRATEGY- ENVIRONMENT,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
NPPF - National Planning Policy Framework,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues for consideration are the principle of the development, highway safety, the effect on the character and appearance of the area and residential amenity.

Principle

The site is within the open countryside, in terms of planning policy. However, it clearly relates to the other employment/business units at the former brick works. Therefore, the character of the area is one of commercial activity within a broader countryside setting, albeit that there are a handful of residential properties directly opposite the site. Policy DM2 of the Core Strategy indicates that small scale employment buildings may be acceptable adjacent to the limits of a settlement. This site does not adjoin a settlement, rather it is in an isolated countryside location. However, the surrounding land uses indicate that the development could be acceptable in principle, and the previous appeal decision did not specifically conclude that the development was unacceptable in principle; rather the consideration was based on an inability to identify the likely harm to neighbouring residents or the character of the area and there was no clear economic benefit to weigh against this.

The previous application was for an undefined 'storage' use. It did not contain specific details of the nature of the storage, where the storage would occur, be stored and to what height, and was concluded that it would be most probable that the activities would do nothing but harm the character and appearance of the locality.

Concerns were also raised regarding the access being opposite the residential properties. However, the likelihood of additional harm to residential outlook and reasonable living conditions was based on the absence of details regarding the activities of the site. This application seeks to clarify how activities would be carried on at the site and, if this can be seen to have limited harm on the surrounding area, it is considered that, on balance, the development can be considered acceptable in principle.

Highways

In terms of highway safety – the concerns of local residents are noted. However, the Highway Authority does not raise an objection to the proposed access point in principle and as such it is not considered reasonable to substantiate a refusal reason

on such grounds.

Visibility splays have been provided for the site, beyond that would be required based on the surveyed traffic speeds, and the proposed entrances gates have been set back to allow vehicles to wait off the highway. Sufficient space has been provided within the site for turning and parking; the Highway Authority has not anticipated that any HGVs would regularly visit the site.

Visual/residential amenity

The siting of the proposed 6 units has been spread within the site to minimise any impact upon the Higher Poole cottages. Three units (A-C) are located to the west of the site, units E-D opposite 21 Higher Poole (end of the terrace) and a single unit (F) to the east of the site.

Units A-C measure 20.6m x 6.2m and has a ridge height of 8.4m. This building is not sited in front of any of the properties at Higher Poole, it is sited off to the side of 14 Higher Poole (beginning of the terrace), with the closest distance between being 13.8m and the distance to the centre of the proposed building (highest point) being 16m away. Given that the proposed building is set-off at an angle to the side of No. 14, and the distance between the proposed building and No. 14, there is not considered to any detrimental loss of light.

Units E-D measure 13.6m x 13.2m and have a ridge height of 8.4m. These units are sited in front of No 21 Higher Poole, set back by a distance of 16.8m. To the east of this unit there is a parking area before unit F and to the west of the building there is a parking/turning area. Given the distance from the proposed building to the residential property and the openness of the site, the proposed units are not considered to cause any undue loss of light to No. 21.

Unit F is sited to east of the site, close to the edge of the boundary shared with the Waste Recycling Centre. This unit is set away from the row of residential properties, with gable facing onto the roadside with a garage and open fields on the opposite side of the road.

Whilst it is acknowledged that the occupiers of Higher Poole will have a different outlook, the siting of the buildings and proposed landscaping is as such that it is considered that the proposals will not cause any detrimental loss of light and any impact from the siting of the buildings would be minimal.

To safeguard any possible harm to the future residential amenity of the occupiers of Higher Poole, a condition will secure open hours of the proposed units and a further condition will be required regarding noise levels.

The proposed security fence has been set back to allow for tree planting to the front of the site. This would allow the security fencing and part of the new units to be screened from ground floor level. Some additional planting is also proposed within the site. It is also considered that the proposed layout of the submitted application retains the sites role as a 'buffer' by maintaining a large proportion of the site, opposite the residential properties, as a parking/turning area.

Wildlife

The Biodiversity Officer has agreed with the findings and recommendations of the submitted wildlife survey and the proposed mitigation should be made a condition of this approval; this will include requesting a further retile survey.

Conclusion

The proposal is a different scheme than the previous application, providing more detail and overcoming the concerns raised within the Appeal Decision. Furthermore, the layout of the site minimises any harm on the residential properties and would not cause any detrimental loss of light. The proposal is therefore considered acceptable.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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