

20/11/2007

Item 1.5

Reg. No. 9/2007/1066/F

Applicant:

Mr A Blackwood
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Littleover
Derby
DE23 4EF

Agent:

B A Reid
Rectory Farm Cottage
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Breadsall
Derbyshire
DE21 5LL

Proposal: The erection of two retail units with first floor apartments over on Land At The Junction Of Egginton Road And Witham Close Hilton

Ward: Hilton

Valid Date: 12/09/2007

Reason for committee determination

Councillor Plenderleith has requested that Committee consider the application as local concern has been expressed about a particular issue.

Site Description

The site is on the car park associated with the adjacent day nursery. It has an access from Witham Close that in turn emerges onto Egginton Road. The site is at a higher level (approximately 1.0m) above the level of Witham Close but is at the same level as the nearest adjacent dwelling 72 Egginton Road. The site lies opposite the Hilton Brook Public House. To the rear of the site is the Doctors surgery and its associated car park.

Proposal

The building with 2 shop units would be 2½ stories high; the upper floors of which would be flats. The buildings would be constructed in materials to fit in with the adjacent developments. Additional parking provision is made across the front of the day nursery that is in the control of the applicant. A footpath would be constructed along the site frontage to join with the path that runs along the front of the shop units.

9/2007/1066/F Land at Junction of Egginton Road & Witham Close

Hilton



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Date Plotted 8/11/2007
Scale 1:2000

License No LA 079375

Applicants' supporting information

The applicant acknowledges that car parking space would be lost as a result of this development but is proposing that eight new parking spaces would be provided on the front of the nursery in the same way that the spaces are provided to the shops on Witham Close. Car parking for the apartments and disabled parking would be provided on the existing site with the remaining parking spaces provided for the use of customers. The removal of the hot food takeaway element that featured in the previous application has allowed for a total of 21 spaces to be provided including two for disabled persons parking.

The applicant considers that a footway should be provided into the site from Egginton Road to the front of the nursery as one is lacking at the moment. Accordingly it is proposed that a footpath be provided and it is hoped that this would remove the need for pedestrians to use the road to access the nursery and shops that happens at the present time.

It is stated that the new shops would provide a wider range of facilities for this expanded village and hopefully reduce the need to travel to obtain goods and services.

The applicants acknowledge that the last application was refused due to the lack of parking and has amended the scheme to ensure that additional parking provision is made available by the removal of the hot food takeaway element of the previous application. It is hoped that this proposal would be acceptable to the County Highway Authority.

Planning History

The site is part of an area of land that was allocated in the Master Plan for the redevelopment of the former Hilton Depot for community and shopping facilities. So far a range of shops, a doctors surgery, a children's nursery and a public house has been erected. Permission for three shop units, two of which could accommodate hot food takeaways was also permitted earlier this year.

An application for the erection of two shop units and a hot food takeaway on this site was refused permission earlier this year on the basis that there was insufficient parking provision for the site as a whole. Permission for the nursery was granted in the early 1990's that included the car park that is now the subject of this application.

Responses to Consultations

Hilton Parish Council objects to the development on the basis that there is insufficient parking provision made and no recognition of the problems identified in their consultant's report. *(The report suggested that if the pub car park was ever closed for public use then there would be a lack of parking provision at the site. If retained for public access then there is sufficient parking provision).*

The County Highway Authority has noted the proposed level of parking and considers it acceptable giving due regard to the observed parking in connection with the existing day nursery. It therefore has no objection to the development subject to the parking provision being made available prior to the occupation of any part of the buildings.

The Environmental Protection Manager has no objection to the development subject to a watching brief being maintained in the event that contamination is encountered.

Responses to Publicity

One letter has been received commenting that the ground may not be suitable for soakaways and as such that drainage should be directed to the sewers. The writers acknowledge that they raised the same concern when the nursery was developed but have had no problems arising from that development. This matter can be covered by condition.

Development Plan Policies

The relevant policies are:

Retained Local Plan: Shopping Policy 3

Planning Considerations

The main issues central to the determination of this application are:

The Development Plan
Parking provision
The design of the buildings
Waste recycling

Planning Assessment

The Development Plan makes provision for local shopping facilities to serve new development. The policies contain criteria that should be met before development is permitted relating to access, noise and disturbance and parking provision.

The Parish Council has stated that the applicant has not moved in the provision of parking in the light of the report it commissioned. This cannot be true, as the application has been amended to reduce the amount of built development and increase the amount of parking within the site to a point where the County Highway Authority has no objection to the development.

The design of the building is the same as those proposed in the earlier application and are considered acceptable. The proposed building is well related to the existing buildings on the site.

The waste recycling area is now located in the corner of the site and a condition to help screen the units is recommended. No existing dwellings would be affected by this element; the Council would provide the containers and no planning permission is required for them.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

3. The car parking spaces/manoeuvring areas shown on the submitted plan C7/34"B" on the shall be hard surfaced with a solid bound material and marked out prior to the first use of the development and thereafter retained for that purpose free of obstruction.

Reason: In the interests of highway safety.

4. Before the development is occupied, the new footpath shown on the submitted drawing C7/34"B" shall be implemented in accordance with a detailed design that has received the prior written approval of the Local Planning Authority and shall thereafter be retained in place in perpetuity.

In the interests of pedestrian safety.

5. Before the development is commenced details of a fence around the proposed recycling area shall be submitted to and approved in writing by the Local Planning Authority. The approved fence shall be erected prior to the first occupation of the development hereby permitted and thereafter retained in place in accordance with the approved details.

In order to screen the recycling area from nearby dwellings where practicable.

6. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local

Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

Informatives:

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.