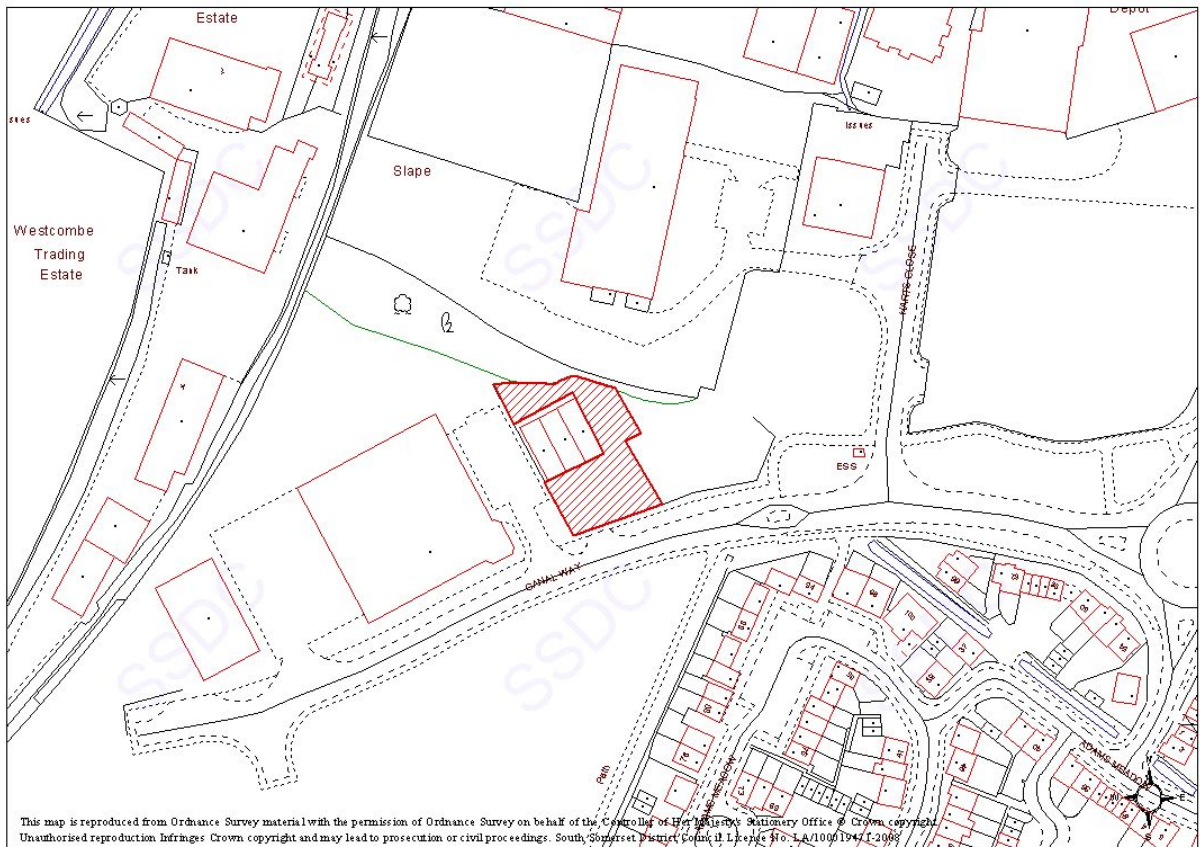


OFFICER: Louisa Brown (01935) 462391 [Item 2]
APPL.NO: 07/05241/COU APPLICATION TYPE: Change of Use
PARISH: Ilminster WARD: ILMINSTER TOWN
DESCRIPTION: Change of use from B1, B2 and B8 to D1 (Children's Nursery) including internal and external alterations. GR (334932/114808)
LOCATION: Unit 4 Broadoak Canal Way Ilminster Somerset TA19 9DW
APPLICANT: Mrs A Jeffery And Mrs L Jay
AGENT: Chris Baranowski Higher Dairy House Allowenshay Hinton St George TA17 8TB
DATE ACCEPTED: 15 November 2007

REASON FOR REFERRAL TO COMMITTEE:

The Vice Chairman, Cllr Robin Munday, has supported the request of ward members, Cllr Kim Turner and Cllr Nicci Court, to refer the application to Committee to allow members the opportunity to consider in more detail the comments made by County Highways in respect of highway safety.

SITE DESCRIPTION AND PROPOSAL:



This is an application seeking full planning consent for internal and external alterations to premises and the change of use from Use Class B1, B2 and B8 to Use Class D1 (Children's Nursery) at a unit located on the northern side of Canal Way. The site currently has four individual units on it, all within the same industrial building.

To the north of the unit is an industrial building, to the east is industrial land, to the south is a residential estate and to the west is a large industrial unit. Directly to the east and southeast of the unit is what appears to be waste ground, there is permission for another unit to be built on this land, which should also incorporate the parking area for the existing and approved development.

HISTORY:

Relevant history:

07/03887/COU: Internal and external alterations to premises and change of use from use class B1, B2 and B8 to use class D1 (children's nursery). - Approved 10/10/07

03/01620/FUL: Proposed industrial units A & B with office accommodation for B1, B2 and B8 use - approved 06/10/03

05/02083/COU: change of use of industrial unit B1, B2 and B8 to extend use to D2 (gym) - approved 16/11/05

POLICY:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant development plan documents unless material considerations indicate otherwise.

Relevant Development Plan Documents:

Regional Spatial Strategy:

Policy VIS 1 - Expressing the Vision

Policy VIS 2 - Principles for Future Development

Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy 49 - Transport Requirements of New Development

South Somerset Local Plan (Adopted April 2006):

Policy ME6 - Retention of Land and Premises

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy MC6 - Location of Non-shopping Key Town Centre Uses

Policy TP6 - Non-Residential Parking Provision

CONSULTATIONS:

Ilminster Town Council

No objections provided that the Change of Use of the premises to Class D1 is confined to use as a Children's Nursery only and there is a satisfactory resolution to safety issues raised by the Highways Authority.

Highways

Object.

Area Engineer

No comment.

Economic Development

No objection.

Environmental Protection Unit

No observations.

REPRESENTATIONS:

Twelve neighbours were notified. No comments received.

CONSIDERATIONS:

The unit to which the change of use applies is one of four within the same building, which is classed as Unit B approved on application 03/01620/FUL. Unit A has not been built yet.

The Economic Development Officer has no objection and stated:

"I have read through information sent by the client and visited the site this morning whilst in Ilminster. Most of my initial observations, which I flagged up in the pre-application, appear to have been dealt with. I now make the following observations:

- It appears that unit 4 has remained empty since it was built. It has been advertised by agents and has been included in the SSDC web page for vacant premises. The rent at £6 per square foot is reasonable for the area. No external advertising boards were present when I visited. However, I conclude that the site has been marketed, at a reasonable rent for several years, but on a lease only. More interest may have come forward if it were freehold. Little alternative/suitable premises exist for a Nursery in the area.

- The Nursery aims to employ 10 members of staff and this number is likely to outweigh staff employed in a B1/B2/B8 classification. Therefore no loss of employment issue.

- A market demand survey has been undertaken for Nursery facilities in the area.
- Car parking and drop off areas exist.
- A business plan/marketing plan/cash flow is in place.
- No evidence of experience/management of running a day nursery before has been put forward, but OFSTED have been notified and they should cover this.
- An external play facility is planned.
- Should the application succeed, I believe that the possibility of Unit 3 being leased will increase since it will be flanked by D1 and D2 use.

From an economic point of view, I raise no objections to the application."

Based on the above comments it is considered that the proposal meets the requirements of Policies ME6 and MC6 as the applicants have demonstrated that the unit has been marketed for B1, B2 and B8 use unsuccessfully, that there are little in alternative sites and the aim to employ ten staff members is considered to outweigh staff employed in B1, B2 and B8 use, therefore there will be no loss of employment.

Ilminster Town Council recommend approval provided that the use is confined to that of a Children's Nursery only within Use Class D1 and there is a satisfactory resolution to safety issues raised by the Highways Authority. It is considered that the request to limit its use within Use Class D1 to that of a nursery is acceptable, this will allow any other uses within Use Class D1 to be individually assessed, in respect of their impact on the residential amenity and parking requirements, should they wish to change the use at a later date.

Environment Protection Unit has no observations to make.

In order to convert the existing unit into a usable space for a Day Nursery there will be internal alterations in order to provide rooms on the ground floor and the first floor. Currently there are no windows in the east or north elevations. In the north elevation it is proposed to have a first floor window and door, with a staircase giving access to the play area (fire escape) and

an additional patio door on the ground floor, these will face the large industrial unit to the North, which is located off Harts Close. In the East elevation there will be three windows on the ground floor and three on the first floor, these will look out over the open area to the East.

There will be an outside play area, which will be located to the north of the unit and enclosed by a 1.8 metre high timber fence. The nearest residential property to the southeast is approximately 58 metres away. It is considered that the proposed nursery will have no adverse affect on the residential amenity.

On the previous application the Highway Authority recommended refusal and stated;

"The current proposal for the introduction of a children's day care nursery raises concerns relating to the suitability of the site. Whilst the site has good links in terms of cycle and footway links directly to the site, the children's day nursery will be located adjacent to other commercial units. There is significant concern that the mix of commercial traffic associated with the industrial units, and the pedestrian traffic generated by the proposed development is likely to increase the potential for conflict, which would be prejudicial to highway safety."

Application 07/03887/COU was approved contrary to Highway objections as the proposed layout of the outside play area and parking spaces would have resulted in the approved unit A on application 03/01620/FUL being unable to be built in accordance with the approved plans. It is this unit, which would cause the most conflict within the site between commercial traffic and pedestrians. A note was placed on the approval, which stated;

"Please note that alterations resulting from this approved application will mean that Unit A approved on application 03/01620/FUL will not be able to be implemented in accordance with the approved plans and in accordance with the approved parking scheme submitted to discharge condition No.09 of application 03/01620/FUL. A new application will need to be submitted to finish the development of the site, which will need to provide adequate parking. Any such proposal will be assessed in relation to the new Class Uses approved on the site."

This application shows the play area repositioned from the side of the building to the rear of it and proposes to use the existing parking spaces, which will result in the development of Unit A to go ahead as approved on application 03/01620/FUL. Meetings have been held with the applicants and County Highways to discuss ways to address the highway objection. Highways have stated that restricting the use of unit A to just B1 use will lessen the impact, but is still not acceptable to them. The Agent has submitted additional information, which states the following;

"The extant planning permission for the site is for class B1, B2 & B8 in two separate buildings with ancillary parking for 26 spaces. To address the safety concerns raised by the Highway Engineers regarding the interface of uses on the site the owner of the site has expressed his intent for allowing the unbuilt Unit A to be restricted to B1 use only and thus removing B2 & B8 use.

My clients are also anxious to consider measures to address the concerns of safety on the site and to this end the following works are proposed;

1. It is proposed to construct a road hump at the entrance to the site as a means of reducing the speed of vehicles entering the shared access area at the front of the site. This would include appropriate signage and road markings as required by Highway standards.
2. It is proposed to create a new entrance for pedestrians in the external fencing to the site to facilitate access to the nursery and at a location adjacent to the proposed siting of the unbuilt Unit A where a footpath is already proposed. In addition it is proposed to create a raised plateau off the main carriageway approximately 1.25m wide and 100mm above the carriageway along the line of the new footpath and towards the entrance to the nursery. This would promote additional protection for pedestrians and provide warning to vehicular traffic.

3. It is proposed to construct a road hump at the closest point between the two units (unit B and unbuilt unit A) at the south western corner as a means of reducing the speed of vehicles entering the parking area to the rear of the site. This would include appropriate signage and road markings as required by Highway standards.

My clients are committed to providing the safest environment for the proposed day nursery and will ensure that all staff and management are properly skilled in identifying risk areas. As well as the proposed works described above there will be a strict safety policy at the arrival and departure of the children during opening hours and at all times during the working of the nursery."

The District Council Legal team have confirmed that it is acceptable to condition any approval so that a Section 106 (planning obligation) is entered into by the land owner to relinquish the B2 & B8 use on the unbuilt Unit A. However County Highways have verbally stated that this would not alter their objection to this application, of which their letter stated;

"As I am sure you are aware the Highway Authority in the previous application (application No 07/03887/COU) raised concerns relating to this proposal in terms of the likely conflict between pedestrians and commercial traffic.

The current proposal shows a similar layout to that of the previous application and whilst it has been discussed at great length the possible implementation of internal traffic calming features, their presence will not overcome the concerns raised above. As such the Highway Authority's comments made in the last application still apply equally and I recommend that the application be refused on highway grounds for the following reason:

1. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review since the proposed development is likely to result in conflict between pedestrians and commercial traffic, which would be prejudicial to highway safety."

There is a small industrial unit between the gym and the proposed day nursery, which still, has B1, B2 and B8 use. It is considered that this unit is unlikely to generate a high level of commercial traffic given its size and like unit 4 has stood empty for some time, and that the main issue of conflict arises from the approved but currently unbuilt Unit A.

RECOMMENDATION :

Application Refused

1. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review since the proposed development is likely to result in conflict between pedestrians and commercial traffic, which would be prejudicial to highway safety.
-