



JOINT AREA COMMITTEES IN SOUTH SOMERSET
Officer Report On Planning Application:
08/02412/COU

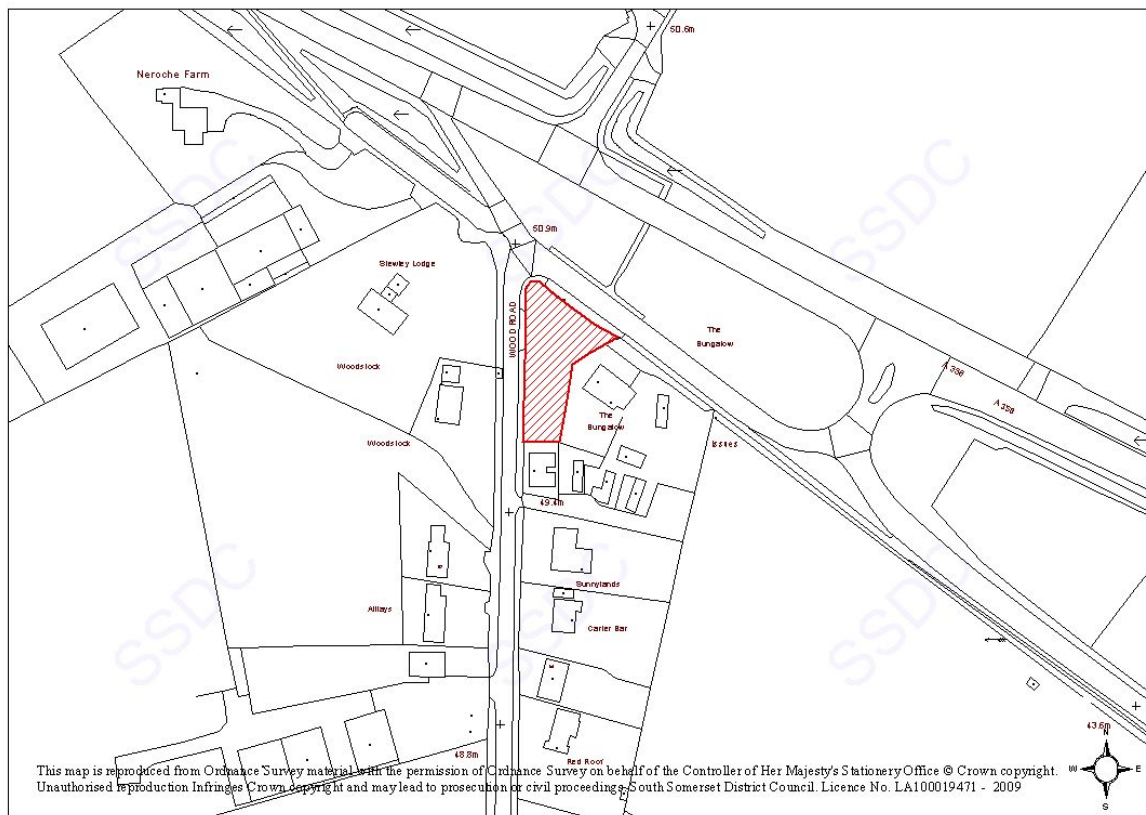


Proposal :	The change of use from car sales to cafe/hot food takeaway (use class A5) (GR: 331233/118016)
Site Address:	Stewley Cross Filling Station Ashill Ilminster
Parish:	Ashill
Ward : (SSDC Member)	NEROCHE: Linda Vijeh (Cllr)
Division (SCC Member)	CURRY RIVEL: Derek Nelson (Cllr)
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date :	10th August 2009
Applicant :	Mr R Osborne
Agent: (no agent if blank)	Greenslade Taylor Hunt 1 High Street Chard Somerset TA20 1QF
Application Type :	Other Change Of Use

REASON FOR REFERRAL TO COMMITTEE

The application is to be considered by the Joint Area Committee at the request of Cllr. Vijeh, with the agreement of the Area Chair. It is felt that the issues should be given further consideration by members.

SITE DESCRIPTION AND PROPOSAL



This application relates to the former filling station at Stewley Cross, located off the A358 at Ashill. The site is on the corner of Wood Road and the old A358, both classified 'C' roads and is adjacent to the junction onto the A358. There are a number of residential properties to the

south and west, with outline planning permission recently granted for the redevelopment of the caravan park to the south to provide seven dwellings.

There is no current use on the site but it was last used as a car sales business and prior to this it was a petrol station with integrated village shop.

The proposal is made to change the use of the business to provide a café/hot food takeaway.

HISTORY

09/00661/COU: The change of use from car sales to food takeaway - Application withdrawn.

07/00825/COU: Use of filling station for the sale of cars - Permitted with conditions.

03/02283/FUL: Erection of a dwelling house and garage (in place of existing filling station) - Permitted with conditions.

02/02180/OUT: Demolition of existing petrol filling station and erection of one dwelling - Permitted with conditions.

91/00060/FUL: Redevelopment of petrol filling station - Permitted with conditions.

Various consents for advertisements at filling station

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:

VIS 2 - Principles for Future Development

EN 4 - Quality in the Built Environment

Somerset and Exmoor National Park Joint Structure Plan:

STR1 - Sustainable Development

STR6 - Development Outside Towns, Rural Centres and Villages

Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006

ST3 - Development Areas

ST5 - General Principles of Development

ST6 - The Quality of Development

EP9 - Control of Potentially Polluting Uses

Policy-related Material Considerations:

Draft Regional Spatial Strategy for the South West (Proposed Changes July 2008):

SD1 - The Ecological Footprint

SD2 - Climate Change

SD3 - The Environment and Natural Resources

SD4 - Sustainable Communities

Development Policy C - Development in Small Towns and Villages

PPS's/PPG's

Planning Policy Statement 7: Sustainable Development in Rural Areas

South Somerset Sustainable Community Strategy

Goal 5 - A competitive high performing economy that is diverse and adaptable

CONSULTATIONS

Town/Parish Council:

Object on the following grounds:

- Need: There is no established need, with takeaway vans in lay-bys along the A358 plus a café and shop at Horton Cross. The hot food sales referred to in the application was not a significant element of the previous business and was from a vending machine or microwave.
- Traffic volume: The proposal would generate significantly more traffic than experienced for the last three years. During the brief use as a car sales business, most customers visited at weekends, with few customers during the week. The proposal will generate much more traffic, affecting properties fronting the Old A358.
- Road safety: The site occupies a sharp bend with limited visibility. Also the likely extensive on-road parking will lead to through traffic driving on the wrong side of the road, increasing danger to road users. The Old A358 is also used by pedestrians including children and adults going to Ashill School, dog walkers and occasional cattle. Increased traffic will increase risk to pedestrians and other road users.
- Noise: The proposal will lead to increased noise levels during the day.
- Parking: The limited parking space on site will be inadequate for the number of likely users, particularly heavy goods vehicles. The proposal will lead to lines of HGVs and other vehicles parked along Wood Road (in front of residential properties) and the Old A358, as occurs in the lay-bys along the A358.
- Emergency access: The likely parking problems will make it harder for emergency vehicles to access Wood Road. Also accidents causing the closure of the A358 lead to traffic being diverted via Wood Road.
- Refuse and litter: The proposal, which includes an outdoor eating area and takeaway, will lead to significant amounts of food waste and litter to the detriment of the area.
- Effluent/sewage discharge: There is no access to mains drainage at this part of Ashill. The existing arrangements are inadequate, as evidenced by the stench that sometimes occurs around the site.
- Security of adjoining properties: Residents are concerned about the increased risk to their security if the proposed business attracted large numbers of passing trade.
- Before being re-routed, the A358 ran through Ashill. The bypass was created to improve traffic flow and ease the impact of traffic. If granted, this application would lead to a real risk of large vehicles and caravans stopping and then having to force their way back onto the A358, disrupting what is now a, more or less, free flowing highway.

In conclusion, this application is highly contentious. The PC and residents take the view that there is no need for takeaway on this site and the impacts it will have on traffic volume, noise pollution, road safety, hygiene and security are not acceptable. The proposal is wholly out of character with this part of Ashill, which comprises a quiet residential area of bungalows in their own grounds.

SSDC Technical Services:

No comment.

County Highway Authority:

I refer to the above-mentioned planning application received on 29th June 2009 on which I have the following observations on the highway aspects of this proposal: -

As I am sure you are aware the Highway Authority in previous applications at the site have raised concerns regarding the suitability of the site in sustainable transport terms. Given the remote location occupiers/customers of the development are likely to be dependant on private vehicles in order to access the site.

The Highway Authority also had concerns relating to the nature of the slip road on to the A358. The slip road at this point is limited in its length and has an excessive gradient. This makes it problematic for vehicles to emerge on to the A358 safely.

Given the above limitations the Highway Authority would not wish to see a proposal that is likely to increase the level of traffic at this point. It is noted from the planning history that the site was formerly a petrol refilling station. This previous use is likely to have generated a level of traffic significantly greater than that of the proposed take away. As a result, whilst there are still concerns regarding the site's location and nature of the surrounding highway network, given the likely reduction in the level of traffic movements at this point it may be unreasonable to raise an objection to the proposal.

SSDC Environmental Protection Unit:

No objections are raised to the scheme but should planning permission be granted the following condition should be applied:

Equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: To ensure that unsatisfactory odours outside the premises are minimised in the interest of the amenity of occupiers of nearby properties.

SSDC Economic Development Unit:

I have responded to a similar application for a change of use of the former filling station at Ashill to a takeaway. On that occasion as this, I am supportive of the opportunity to retain a commercial business at this location. The opportunity to provide employment and a service to local and travelling people is supported.

REPRESENTATIONS

The application has been advertised by press and site notice for the requisite period. Twenty one letters of objection have been received from neighbours. The following comments were made:

- The site is on a dangerous junction and on-street parking, would be a danger to road users and pedestrians. This would be exacerbated, particularly as the business would be likely to be used by HGVs and cars towing caravans.
- Slow moving vehicles rejoining the A358 will add to highway safety concerns.
- The A358 bypass was built to reduce traffic through Ashill.
- The increased use of the toilets and cleaning equipment would put increased demand on the existing substandard foul water disposal system.
- The smell of food being cooked will be unacceptable in this residential area.
- The use will lead to a build up of litter to the detriment of the locality.

- This type of café could be a meeting place for the undesirable element of society, possibly leading to concerns for the safety of the elderly and young children living in the area.
- There is no need for the business as there are other food vans in laybys along the A358, the café and services at Horton Cross and local pubs.
- The business will require signage, which will be an eyesore for local residents.

CONSIDERATIONS

The application seeks to change the use of this business site from a car sales place to a café with takeaway. There is no use taking place at present but the last use was as a car sales place and prior to this it has included a local shop and filling station.

There have been several objections raised by local residents and the parish council. These revolve around concerns about highway safety, impact on residential amenity as a result of noise and smells, impact on existing sewerage system, general hygiene and security.

Principle of Development

The site is an existing commercial premises and as such local and national policies, such as PPS7, support the retention of existing facilities that provide employment opportunities or local services and facilities in rural areas.

Whilst there is no business currently trading from the site, there is a history of various uses, the last of which was a car sales place and prior to this it was a filling station with local shop. The Council's Economic Development Team Leader has considered the application and supports the proposal as it gives the opportunity to retain a commercial business at this location. Furthermore it is considered to give the opportunity to provide employment and a service to local and travelling people. It is noted that there is a presumption against the loss of petrol stations in rural areas however this use has ceased for sometime and all the filling equipment has been removed prior to its last use as a car sales place.

In regard to the need for the business, which has been raised in objections, this is not considered to be a material planning consideration on this occasion. Whether there will be adequate trade to maintain a business is not a planning matter. It is however noted that this proposal varies from the catering vans along the A358, as it will also offer a service to local residents as well as passing trade.

Highway Safety

The proposed use will clearly lead to increased vehicle usage than at present, however it is noted that there is no business activity taking place at the moment. This is a commercial site and there is the expectation that a business use of some kind could be reintroduced at this location. The County Highway Authority have been consulted and have considered the proposal in comparison to previous uses, of which the site could be returned.

Firstly, the Highway Authority have commented on their concerns relating to the sustainability of the proposal, due likelihood that the majority of users will be dependant on private vehicles and that the adjacent slip road onto the A358 is of limited length and has an excessive gradient. Despite this, it is recognised that previous uses have included a car sales business and a filling station with local shop. As such, it is the opinion of the Highway Authority that the proposed business is likely to generate significantly less levels of traffic than previous uses, particularly as a filling station. As such, even though there are some concerns, it is deemed unreasonable to raise an objection.

Amenity

The site is located on a corner plot with the A358 to the north and a number of residential dwellings to the south, east and west. Objections have been raised in regard to impact on visual and residential amenity as a result of potential noise, smell and litter. Concerns are also

raised regarding the personal security of local residents and the potential for increased usage of what is advised to be a sub-standard drainage system.

Firstly, it is not considered that there will be any significant increase in noise levels in comparison to another business use on site. The Council's Environmental Protection Officer has raised no objections to the scheme. There is the potential for uses taking place within the proposed business to generate odours, i.e. cooking of food, but Environmental Protection are satisfied that this will not have a significant detrimental impact on the residential amenity of local residents provided that suitable equipment is installed to suppress and disperse fumes and smells. As such, this is considered acceptable but a condition would be imposed if approved.

It is noted that there was a discrepancy in regard to the on-site provision for foul drainage. It is advised in the application form that any foul sewage will be disposed of by the main sewer although local residents have noted that there is no main sewer at this part of Ashill and the site disposes to a septic tank or cess pit. Further information was requested from the applicant's agent and it has been confirmed that the site is served by a package treatment plant, also used by the adjacent bungalow. There is outline permission for redevelopment of the adjacent site, for which a new communal treatment plant will be provided. The bungalow will be connected to this, leaving just the former filling station on the existing system. If this is inadequate it is proposed to connect to the new system or provide a completely new system. However, it is acknowledged that any new system on the adjacent site could be several years away at the earliest. Despite this, previous uses have included toilets that have been available for users of the site. It is not considered that there should be any significant increased usage from that which may have previously occurred. It is however considered appropriate to impose a condition for details of means of foul sewage disposal to be provided and agreed prior to commencement of the proposed use. If this then shows that the current provision is inadequate, further arrangements will then have to be made.

In regard to the issue relating to the potential for generation of litter, it is considered that adequate on-site provision for the disposal of litter that maybe generated will sufficiently deal with this concern. As such, a condition will be imposed to ensure that a scheme is agreed for the on-site management and disposal of litter.

The matter of security is a planning consideration, but is not considered to be relevant in regard to this application. There is no reason to assume that users of the site will pose any risk.

It is noted in the application form that the proposed hours of opening are 9am to 9pm. As this is a residential area, there are concerns that activity later in the evening or earlier in the morning may have potential for disturbance. While the level of disturbance can't be shown at the moment, it would seem prudent and reasonable to condition the hours of opening in line with what the applicant has proposed. If these need to be varied, this will allow the Local Planning Authority to give consideration to the potential additional impact on residential amenity.

Conclusion

Overall, despite the objections raised by the parish council and immediate neighbours, the proposal is considered to provide an acceptable commercial re-use of the site, satisfies highway safety concerns and is not considered to cause any unacceptable harm to the residential amenity of the occupiers of any residential properties in the vicinity. Therefore, the recommendation to Members is to grant planning permission for the proposed change of use.

RECOMMENDATION

Grant permission with conditions

The proposed change of use is considered to be an acceptable form of commercial re-use, respects the character of the area and is not considered to be detrimental to highway safety

or residential amenity, in accordance with the aims and objectives of PPS7, policies VIS 2 and EN 4 of the Regional Spatial Strategy, policies STR1, STR6 and 49 of the Somerset and Exmoor National Joint Structure Plan Review and policies ST5, ST6 and EP9 of the South Somerset Local Plan 2006.

SUBJECT TO THE FOLLOWING:

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and to protect the local water environment, in accordance with STR1 of the Somerset and Exmoor National Joint Structure Plan Review and policies ST5, ST6 and EP9 of the South Somerset Local Plan 2006.

3. The use hereby approved shall not commence until provision for waste disposal has been provided in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details to adequately provide for the storage, collection and disposal of refuse generated from the permitted use. Such approved waste management plan shall thereafter be fully implemented and maintained.

Reason: To safeguard the character and appearance of the area and in the interests of residential amenity, in accordance with STR1 of the Somerset and Exmoor National Joint Structure Plan Review and policies ST5 and ST6 of the South Somerset Local Plan 2006.

4. The subject land including any building(s) thereon shall be used as a café/hot food takeaway and for no other purpose (including any other purpose in Classes A3 or A5 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity and highway safety to accord with policy 49 of the Somerset and Exmoor National Joint Structure Plan Review and Policies ST5 and ST6 of the South Somerset Local Plan 2006.

5. The use hereby permitted shall only be operated between the hours of 0900 hours and 2100 hours Monday to Sunday, including Bank Holidays.

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity and highway safety to accord with policy 49 of the Somerset and Exmoor National Joint Structure Plan Review and Policies ST5 and ST6 of the South Somerset Local Plan 2006.

6. No means of external illumination shall be operated on any part of the subject land without the prior written agreement of the District Planning Authority. Any details that

may be agreed shall not be altered unless the District Planning Authority gives its written consent to any variation.

Reason: To safeguard the character and appearance of the area and in the interests of residential amenity, in accordance with STR1 of the Somerset and Exmoor National Joint Structure Plan Review and policies ST5 and ST6 of the South Somerset Local Plan 2006.