

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Bromsgrove District Council 'A'	Change of use from Market Hall to car park - Market Hall, St John Street, Bromsgrove	TCZ	10/0317-MT 04.06.2010

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the application upon the expiry of the consultation period on 21.05.2010.

MINDED to APPROVE a temporary planning permission for a period of two years subject to the receipt of satisfactory comments from the Environment Agency.

Consultations

WH Consulted on 16.04.2010; no comments received to date.

Comments in relation to previous application (10/0120) received 08.03.2010 recommend that permission is refused for the following reasons:

The application will encourage additional car movements into the town centre. The development cannot promote sustainable means of access as there is no ability for the application to encourage walking, cycling or bus access over car access. There is a real danger of encouraging car trips into the town centre which will create congestion and in educating motorists as once they regularly access the town via car reversing that trend is very difficult regardless of how attractive the alternative means are.

It is considered that the principle of a development that encourages car activity and does not encourage sustainable development is unacceptable and should be refused.

WCC Consulted 16.04.2010; no comments received to date.

Public Rights of Way Comments in relation to previous application received 24.02.2010:

The development affects a public right of way as recorded on the Definitive Map. The public right of way is Bromsgrove Footpath 584 (BM-584).

I am concerned that the application mentions security fencing around the site. The Department of Environment Circular 2/93 states that no development should be allowed to obstruct a public right of way either during or after development. We must therefore object to this application although we may be able to withdraw the objection if the applicant can supply an indication of how the public right of way is to be accommodated.

Ramblers Consulted 16.04.2010; no comments received to date.

CA Comments received 16.04.2010: No objection

Drainage Engineer Comments received 29.04.2010: There is no history of flooding at the site and the site is protected upstream by culverts and weirs. The EAs requirement for a FRA is not considered to be necessary.
EA Consulted 30.04.2010: No comments received to date.

Comments received in relation to previous application (26.03.2010) are as follows:

'In the absence of a Flood Risk Assessment (FRA), we OBJECT to the proposed development for the following reasons:

Flood Risk

The site lies within Flood Zone 3 based on our 'indicative' Flood Zone Map, which is defined by Planning Policy Statement (PPS) 25 'Development and Flood Risk' as having a 'high probability' of flooding. Paragraph E9 of PPS25 requires applicants to submit a FRA when development is proposed in such locations. In Section 13 of the planning application form the applicant acknowledges that the site is in the floodplain on our Flood Map, however no FRA has been submitted with the planning application.

Flood Risk Assessment (FRA):

We acknowledge that the demolition of the market hall building is likely to improve flooding in terms of flood flows and flood storage and that access to the watercourse will also be improved for any improvement or maintenance works.

However, in the absence of a FRA, the flood risks resulting from the proposed development are unknown. The absence of a FRA is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas, as set out in paragraphs 10 and E9 of PPS25.

The applicant should submit a FRA, which should be relative to the scale and nature of the development proposed. The FRA should consider the extent and depths of flooding to the site, including the consideration of climate change (Annex B of PPS25). In this case, the FRA should concentrate on the risk of flooding to car park users and their vehicles. Guidance on car parks in the floodplain can be found in Paragraphs 6.13 and 6.14 of the PPS25 Practice Guide (December 2009) including information on depths of flooding and types of car parking i.e. short stay, long stay etc. The application does not currently state whether the parking is for long or short stay. Consideration should also be given to evacuation plans (for the consideration of your Council and the Emergency Services) and to flood warning notices. It should be noted that there is no flood warning service available on this watercourse.

In the absence of a Flood Risk Assessment, the application is currently considered contrary to PPS25 and may be refused on this basis.

If your Council is minded to approve the application we would request that you inform us of this with your reasons why so that we can make further comments.

Upon receipt of further information, as requested above, we will be in a position to review our stance on the proposed development.

Publicity Site Notice Posted 23.04.2010 expires 14.05.2010.

Press Notice published 22.04.2010 expires 13.05.2010.

No comments received.

The site and its surroundings

The application site was previously occupied by the Market Hall building. This has now been demolished leaving behind an area of hardstanding. The site is bounded by St John Street and Market Place to its northern and eastern boundaries, a public car park to its western boundary and Spadesbourne Brook to its southern boundary. The site is within the Town Centre Zone and the junction of Market Place and St John Street is defined in the BDLP as a Primary Shopping Street. The site is adjacent to, but not within, the Town Centre Conservation Area. There is a public right of way running along the south eastern boundary of the site.

Proposal

This application proposes to change the use of the site to a public pay and display car park. This will effectively be an extension of the adjacent car park increasing the number of spaces from 138 to 210 (an additional 72 spaces would be provided including 4 disabled spaces). The car park would be accessed from the existing entrances on St John Street and Hanover Street.

This application is a resubmission of withdrawn application ref. 10/0120. Members will note that the Environment Agency raised an objection to that application due to it containing insufficient information to demonstrate the flood risks resulting from the proposed development. The application was therefore withdrawn in order for such information to be gathered.

Relevant Policies

WCSP SD.9, CTC.1, CTC.8

BDLP DS13, ES1, ES2, BROM 11, BROM 12, BROM 13

Others PPS1, PPS4, PPS5, PPG13, PPS25

Relevant Planning History

10/0109 Demolition of Market Hall - Prior Approval of demolition not required

10/0120 Change of use from Market Hall to car park - Withdrawn

Notes

I consider that there are a number of issues to address in the determination of this application. Firstly, it is important to establish the principle of the development. Would the proposed car park be appropriate in this location? Secondly, I note the concerns of the Highways Engineer in relation to the previous application. Further comments have not been received in relation to this application but, as the proposal has not been altered in any way, I consider these views to still be valid. I will therefore consider the transport implications of the scheme below. Thirdly, it is necessary to consider the impact of the development on the setting of the adjacent Conservation Area. Fourthly, I note the comments of the Public Paths Officer in relation to the previous application and these will be duly considered below. Finally, it is important to consider the flood risks resulting from the proposed development. I will deal with each of these matters under separate headings below.

The principle of the development

Policy BROM13 of the BDLP provides that within the Primary Shopping Area of the town centre the District Council will normally allow proposals for retail development at ground floor level, and retail, office or residential use at upper floor level. The explanatory text to this policy states that '*The District Council wishes to maintain the primary shopping area as the key location for retail and associated uses. Other uses will not normally be permitted at ground floor level.*'

The proposal would not involve retail development nor is it considered to involve an associated use. I am of the view that the proposal would be ancillary to the main retail function of the Town Centre but I do not consider such a use to be appropriate in a Primary Shopping Area but rather in a secondary shopping or edge of centre location. As such I consider the proposal to be unacceptable in principle.

It is however understood that the long term plan is to use the site for retail development and the proposed car park is only intended to be a short term solution due to a lack of developer interest and the current economic situation. I appreciate the applicant's situation and I consider that this proposal would bring the site back into effective use until a long term solution is found.

I am nonetheless mindful of the provisions of Policy BROM13 and I consider that, if the Council are minded to approve planning permission for the proposal, this should be done on a temporary basis so to limit the use to the short term. I consider that this approach would not irreversibly dilute the retail function of the Town Centre and prejudice the Council's commitment to regeneration.

Highways

Members will note that the Highways Engineer recommended that the previous application is refused planning permission as it would undermine the objectives of sustainable transport. No comments have been received in relation to this application but, as the proposal is unchanged, I will have regard to the previous comments.

I am mindful of the governments planning policy advice for transport contained in PPG13. This advises local planning authorities to promote sustainable transport choices and reduce reliance on the car for work and other journeys. Reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices.

It is considered that increasing the parking provision of the town centre would act as a disincentive for people to travel to the Town Centre by more sustainable means such as public transport, cycling and walking. The proposed development would therefore contravene the government's objectives for sustainable transport advocated in PPG13. It is however important to note that the use of the site as a car park is only intended to be a short term solution. Thus, if and insofar as the proposal does encourage car travel into the town centre, this would only be for a short period of time. The concept of sustainable development (and thus sustainable transport) refers to long term objectives and protecting the environment for future generations. I do not consider that any harm resulting from this proposal (i.e. through vehicle emissions) would be material enough to substantiate an argument against the proposal in sustainability or strategic terms.

I am also mindful of a recent appeal decision against Leicester City Council for a similar proposal (Appeal ref. APP/W2465/C/09/2104664). Here the Inspector allowed an appeal against an enforcement notice for the unauthorised change of use of a city centre site to a surface car park. The appellant sought permission for a temporary period of two years. The Inspector found the principle of the car park to undermine national, regional and local planning policies and guidance seeking to promote sustainable transport choices but considered that, amongst other reasons, the temporary nature of the use would materially reduce any resulting harm. The appeal was allowed and a temporary two year planning permission was granted.

On the above basis I would give significant weight to the fact that the proposal is only intended as a short term venture and I would strongly recommend that any planning permission granted is only done so on a temporary basis.

Impact on setting of Conservation Area

It is considered that the proposal would have no adverse impact on the character and appearance of the adjoining Conservation Area. The Council's Conservation Officer has been consulted on the proposal and no objection has been raised.

The Public Right of Way

I acknowledge the comments of Worcestershire County Council in relation to the nearby public right of way. It should however be noted that the concerns raised relate to the security fencing that would be erected around the site whilst the approved demolition took place. The proposed use of the site as a car park would not obstruct the public right of way.

Flood Risk

The site is located adjacent to Spadesbourne Brook and within Flood Zone 3 as defined by the Environment Agency (EA). Members will note the objection of the EA in relation to

the previous withdrawn application and the requirement for the applicant to submit a Flood Risk Assessment (FRA).

The views of the Council's Drainage Engineer have been sought on this matter and the requirement for a FRA is not considered to be necessary. It is understood that there is no history of flooding at the site and the site is protected upstream by culverts and weirs.

Further advice has been sought from the EA in light of these comments. Their response is awaited.

Conclusion

Although the provision of additional car parking is not considered to be an appropriate land use in a Primary Shopping Area I do not consider that this short term proposal would irreversibly dilute the retail function of the Town Centre. The proposal would not promote sustainable transport but it is not considered that any strategic harm would result from the use of the site as a car park in the short term. Taking these points into consideration I would strongly recommend that any planning permission granted is only done so on a temporary basis.

There is clearly an outstanding issue to be addressed with regard to flooding. My recommended decision on this application is therefore contingent on the receipt of satisfactory comments from the EA. Members will note that the consultation period with the EA does not expire until after the meeting of the Planning Committee. I would therefore recommend that delegated powers be granted to the Head of Planning and Regeneration to determine the application upon the expiry of the consultation period.

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the application upon the expiry of the consultation period on 21.05.2010

MINDED to APPROVE a temporary planning permission for a period of two years subject to the receipt of satisfactory comments from the Environment Agency.