

# REPORT TO THE WESTERN AREA PLANNING COMMITTEE

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|----------------------------|--|--|-----------|
| <b>Date of Meeting</b>     | 08.12.2010   |  |           |
| <b>Application Number</b>  | W/10/02695/FUL   |  |           |
| <b>Site Address</b>        | Riverside MOT Centre Bradford Road Melksham Wiltshire SN12 8LQ |  |           |
| <b>Proposal</b>            | Retrospective application for siting of a catering trailer     |  |           |
| <b>Applicant</b>           | Ms Christine Wood  |  |           |
| <b>Town/Parish Council</b> | Melksham (Town)  |  |           |
| <b>Electoral Division</b>  | Melksham North   | <b>Unitary Member:</b>                                 | Rod Eaton |
| <b>Grid Ref</b>            | 389739 163955  |  |           |
| <b>Type of application</b> | Full Plan  |  |           |
| <b>Case Officer</b>        | Mr James Taylor  | 01225 770344 Ext 5169<br>james.taylor@wiltshire.gov.uk |           |

## Reason for the application being considered by Committee

Councillor Rod Eaton has requested that this item be determined by Committee due to:

- \* In the interests of public debate.
- \* Highway considerations

This application is on the fringes of several parishes and ward areas. It is therefore worthy to note that the adjacent ward member Councillor Mark Griffiths has also requested call-in of this application due to:

- \* "Time. Continual lack of detail or completed applications."

## 1. Purpose of Report

To consider the above application and to recommend that planning permission be refused.

## 2. Main Issues

The main issues to consider are:

- \* Highway safety, including access and parking provision
- \* Flooding
- \* Environmental Health
- \* Visual appearance

## 3. Site Description

The application site is on the fringes of Melksham, accessed from the B3107 which runs between Melksham and Bradford on Avon via Holt. The site is within Melksham's Parish but immediately adjacent to the parishes of Melksham Without and Broughton Gifford.

The predominant land use in the vicinity and indeed within the application site is industrial and this defines the character of the site. However it is noted that to the south and west of the application site is open countryside with a very different appearance.

As this is a retrospective application the development for which permission is being sought is already present on site. This includes a change of use of land to allow the stationing of a mobile snack bar on the site with use of a small area around the trailer for tables and chairs and waste storage. In addition there is hard standing used for parking of vehicles.

#### **4. Relevant Planning History**

None

#### **5. Proposal**

This is a retrospective application for the stationing of a mobile snack trailer on the site for the sale of hot foods with ancillary areas of seating, waste storage and car parking being used in connection to this.

#### **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C32 Landscaping

C38 Nuisance

PPS1: Delivering Sustainable Development

PPG13: Transport

PPS25: Development and Flood Risk

#### **7. Consultations**

##### Melksham Town Council

No objection

##### Broughton Gifford Parish Council

"Broughton Gifford Parish Council viewed the application documents which it downloaded from the Wiltshire Council website since it was not automatically sent a copy, even though this site is virtually on its boundary. Whilst the Parish Council noted some of the comments made in respect of highway safety it has no objections to the application itself.

The Parish Council merely wished to ensure the applicant complied with planning policy just as everyone else has to. It was extremely disappointed with the apparent inability of Wiltshire Council to enforce compliance for an application to be submitted within a reasonable timescale. It took over 15 months on this occasion, whereby the business continued to trade unrestricted. Wiltshire Council seemed to be strung along for a considerable length of time on the promise that an application was in the pipeline, which perhaps should be addressed in a review of planning and enforcement policy.

The Parish Council thanks Mr Griffiths for calling this application in to the Planning Committee, as it will highlight the possible abuse of planning policy that can occur, to the detriment of the impression Wiltshire Council would prefer to project to the general public, most of whom are able to comply with relevant regulations as necessary."

## Highways

Comments on 05.10.2010:

"Further to my email below and to our subsequent conversation, I have given further consideration to this application in the light of new advice from the applicant's representative, Mr Dennis Clarke, that there have been no accidents or incidents associated with the existing entrance whilst the facility tends to attract passing cars and light vehicles. He explained that an existing entrance, some 25m to the north, attracts a significant amount of commercial traffic and that the catering trailer, having more than 8 parking spaces, also serves the existing uses on the remainder of the site.

Whilst this new information is helpful to understand the application proposals, I remain of the view that the proposals would be unacceptable from a highway safety point of view and so recommend the reasons for refusal I have cited in my email below dated 22 September."

Original comments on 22.09.2010.

"It is apparent that the site has a permitted use associated with small-scale engineering/motor trades that generates a modest amount of daily traffic.

My concern is that the proposal, being road traffic-based, is likely to generate considerable additional vehicle movements at the site access onto Bradford Road, where the visibility splay to the south-west is limited to around 2.4m by 60m. This road is speed de-restricted with approach speeds from the south-west being in the region of 45-50mph. Such speeds would justify a visibility splay of 2.4m by 160m. In addition, the proposal is likely to increase the number of right turning movements into the site when there is no safe right turning facility available on Bradford Road and limited forward visibility to the south-west. The facility is also likely to encourage drivers of large vehicles to park on Bradford Road when using the facility, rather than attempt to enter and turn on the site. Finally, the potential for parking for the facility would reduce the space available for parking for the permitted use/s on the site.

As a result of the above considerations, I wish to raise a highway objection to the application citing the following reasons:-

- The increased use of the existing access, arising from the generation of additional conflicting traffic movements resulting from the development, would be prejudicial to road safety.
- The development would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and prejudice the safety of road users at this point.
- The proposal would result in the loss of on-site vehicle parking facilities and could therefore encourage parking on the highway with consequent risk of additional hazards to all users of Bradford Road.

## Environment Agency

08.10.2010

No objection in principle to the retrospective application but wishes to make the following recommendation.

"We recommend that the applicant contacts the Emergency Planner at Wiltshire Council to discuss the scope and content of an emergency flood evacuation plan for the site. The final approval of this document will ultimately lie with the Council. We recommend that the applicant registers to receive our Floodline Warnings Direct service, who can be contacted on 0845 988 1188 or via our website."

Initial comment received on 05.10.2010

Policy objection to this proposal.

## Environmental Health

No objections. Informative suggested to state that the applicant will need to register as a food business.

## **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 6 October 2010

Summary of points raised:

\* No comments received.

## **9. Planning Considerations**

9.1 This application is a retrospective proposal. It is always regrettable to have a retrospective application, however the clear breach of planning regulations is not material to the determination of the case. It is stressed that the application, like any proposal, must be treated purely on its planning merits and this being a retrospective application is not in itself material.

9.2 Therefore the comments of Broughton Gifford Parish Council are noted, but ultimately they are a separate matter which needs to be addressed as feedback for this Council in handling enforcement matters.

9.3 The proposals are for a snack bar and it is noted that whilst the Environmental Health Officer has no record of this food business, and that has to be addressed again as a separate matter, they have no objection in principle to the operation. The EHO suggests no conditions in relation to this retrospective proposal.

9.4 The proposals would result in a very minimal visual impact on the context of this site's lawful employment and industrial use. Visually the proposals within the context of the area pose no planning concerns and are consistent with the surrounding area.

9.5 Turning to other matters, it is noted that the snack van has been sited in the functional floodplain (flood zone 3b) and is immediately adjacent to South Brook. This location is the highest level of flood risk as defined in PPS25. Unusually, when the level of flood risk is this high and the information provided is so limited, the Environment Agency has concluded to raise no objection to the proposals. It is detailed on the public file that the EA initially objected to the proposals on policy grounds, however they subsequently have confirmed that they have no objection and their first letter was sent in error.

9.6 Whilst it is accepted that the siting of the snack bar, in flooding terms, could not be substantially worse, taking a pragmatic view it is accepted that the rubbish storage, table and chairs, and fuel could easily be packed away and the snack bar towed away from the flood area in the event that flooding is likely. Moreover however is the fact that the experts on flood risk at the EA do not raise an objection. On the basis largely of the EA comments it is very hard to substantiate a reasonable flooding objection to the proposals.

9.7 Turning to the issue of highway safety, it is noted that the Council's highway officers do raise an objection to the development. Indeed even after discussion with a representative of the applicant and the case officer highway objection to the proposal remains. From verbal communications it is understood that a representative of the appellant has suggested a temporary permission be granted to allow an assessment of the actual highway safety risk. However planning officers would not advocate the use of temporary permissions to assess highway safety. Issues of highway safety do have genuine, immediate and potentially life threatening consequences. To allow what has been assessed by expert highway officers as being dangerous development to remain on an authorised basis to test the risks is not considered to be wise or reasonable. As such it would fail to meet the tests of a condition as detailed in Circular 11/95 which required a condition to be reasonable.

9.8 On the basis of the expert opinion of the highway officers as detailed in full above it is considered that the proposals are detrimental to highway safety. Furthermore in the event that the full potential of this brownfield site is made use of then the concerns of the highway officer would be exacerbated. For example planning permission exists of the site for more industrial units to be erected to the NE of the MOT garaging business, albeit it has not been implemented. Further on the same site a planning application is pending for the use of the site in connection with cement batching, an activity that has previously occurred on this land. All of these uses would increase the use of the existing access and parking facilities to which this application relates.

9.9 After careful consideration of all the planning issues relevant to the site, it is considered that this application should be recommended for refusal on the basis of all the concerns raised by the expert highway officers.

**Recommendation: Refusal**

**For the following reason(s):**

- 1 The increased use of the existing access, arising from the generation of additional conflicting traffic movements resulting from the development, would be prejudicial to road safety.
- 2 The development would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and prejudice the safety of road users at this point.
- 3 The proposal would result in the loss of on-site vehicle parking facilities and could therefore encourage parking on the highway with consequent risk of additional hazards to all users of Bradford Road.

**Informative(s):**

- 1 In the event that the applicant is minded not to pursue this matter at a planning appeal they are advised that the catering trailer and all associated equipment including but not necessarily limited to tables, chairs, and waste storage facilities should be removed from the site with immediate effect; and the land returned to its original state prior to the commencement of development which was stated as being 14 June 2009 on the application form.
- 2 In the event that the applicant is minded to pursue this matter at a planning appeal they are advised that they need to register this mobile catering trailer as a food business with the Council's Environmental Health team who can be contacted on 01225 776655 or [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk).
- 3 In the event that the applicant is minded to pursue this matter at a planning appeal they are advised that the site is within an area designated as being at a high risk of flooding. They should consider their emergency flood evacuation plan for the site and register with the Environment Agency's Floodline Warnings Direct service who can be contacted on 0845 988 1188 or [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk).

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| <b>Appendices:</b>  |  |
| <b>Background Documents Used in the Preparation of this Report:</b> |  |



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## RELEVANT APPLICATION PLANS

Drawing : LOCATION PLAN received on 26.08.2010  
Drawing : OS PLAN received on 26.08.2010  
Drawing : BLOCK PLAN NTS received on 21.08.2010  
Drawing : BLOCK PLAN 1:200 received on 26.08.2010  
Drawing : PHOTO received on 21.08.2010