

OTTERY ST MARY TOWN  
(Ottery St Mary)

07/1809/FUL

Target Date: 22.08.2007

Applicant: Whatcote Investments (Birmingham) Ltd

Location: Land at Finnimore Industrial Estate  
Ottery St Mary  
Devon  
EX11 1NR

Proposal: Erection of two industrial units

## **UPDATE**

Members will recall considering this application at the meeting on 11<sup>th</sup> December, when it was decided to defer consideration pending further correspondence with the County Highway Authority over certain aspects of the development.

In particular Members expressed concerns about three specific highway related aspects of the development.

- Firstly, the Committee requested that the Highway Authority be asked to provide clarification upon its views about the potential conflict between school children and industrial traffic using Hansford Way, following concerns expressed by local Ward Members.
- Secondly, Members raised the matter of imposing a condition upon any permission which sought to restrict the times of use of the access road into the estate, to avoid conflict with children going to or leaving the nearby school.
- Thirdly Members suggested that some sort of physical barrier or lights system should be installed to prevent the access road from being used in both directions.

All of the above matters have been brought to the attention of the County Highway Authority, with a request for a detailed response covering the three issues in time for presentation at the next Committee meeting on 15<sup>th</sup> January 2008. Copies of the letter requesting reconsideration of the matters have been sent to the Ward Councillors and to the Chairman of the Committee. The Town Council has been advised of the Committee's decision to defer consideration and asked that any further comments that it might have be provided by the 15<sup>th</sup> January. A copy of the amended highway works plan has also been sent to them.

At the time of preparing this report no comments have been received from either the County Highway Authority or the Town Council, but it is hoped that responses will be received and reported orally at the meeting, along with any changes to the original recommendation arising from the Highway Authority's reply to the questions posed by the Committee.

Meanwhile Members are invited to refer to the original Committee report (copy attached). With regard to the issues involved in this application, the history of previous applications involving the site and the access to it, the responses to consultations and local publicity received and the material planning and highway considerations that will need to be addressed.

## **ORIGINAL REPORT**

OTTERY ST MARY TOWN  
(Ottery St Mary)

07/1809/FUL

Target Date: 22.08.2007

Applicant: Whatcote Investments (Birmingham) Ltd

Location: Land at Finnimore Industrial Estate  
Ottery St Mary  
Devon  
EX11 1NR

Proposal: Erection of two industrial units

## **CONSULTATIONS**

### County Highway Authority

Considered it would be unreasonable to raise a highway objection, in principle, to the development, given the fact that the Inspector who dealt with the last appeal for industrial units on this site considered that two accesses into the industrial estate would derive a potential benefit. However based upon the submitted drawings the Highway Authority recommended refusal due to inadequate information relating to access, visibility splays, off-street parking, road layout, road construction, road gradient, surface water drainage and on-site turning facilities.

The applicant's agent responded to this objection by submitting amended plans and a supporting statement covering all of the highway issues but again the Highway Authority responded by expressing its disappointment at the quality of the highway aspects of the submission. The applicant's agent has subsequently met with the Highway Authority's engineers and further details of the access etc. have been produced. The further views of the Highway Authority have again been requested, based upon the latest details and any further comments will be reported orally at the meeting.

### Environment Agency

No objection based upon the submitted Flood Risk Assessment (a flood bank installed by the Environment Agency protects the site) and subject to a condition relating to facilities for storage of oils, fuels or chemicals being sited on impervious bases and surrounded by impervious bund walls.

### Contaminated Land Officer

No comments to make.

## **TOWN/PARISH COUNCIL**

Approve

## **WARD MEMBER(S)**

The initial comments of the Ward Member, Councillor Giles are:

"This application is in my ward and my preliminary view, based on the information presently available, is that it should be considered at the Development Control Committee.

I do recognise that the application is for employment units on the Finnemore estate, which appears to be the right place for this type of development. However I do have some concerns about the application. There is considerable concern amongst local residents about this application and I believe that it should be determined in the public domain.

The principal concern relates to highway matters. I am aware of the relevant planning history, and the Inspector's views about access when refusing a previous planning permission. I am most concerned that there would be a conflict between the existing users of Thorne Farm Way: the residents of the 140 houses in Elliot Close, Ferguson Close, Godfrey Close, Taylor Close and Thorne Farm Way, the only access for whom is the southern end of Thorne Far Way, and potentially very large lorries accessing the two units via the southern end of Thorne Farm Way and then an extended Hansford Way, should planning permission be given.

My concern is even greater about the potential conflict with the very large number of students attending The King's School (I should say that I am an LEA-appointed Governor of The King's School), many hundreds of whom walk across TFW near its junction with Exeter Road on their way to and from school, and the large number of students going to and from school by coaches – the official school coach park is accessed via TFW – and private cars. If anyone is in any doubt at all about the inherent dangers of the situation I urge them to be here in the afternoon at the end of the school day. I can assure you that it is very worrying indeed.

In addition, of course, the Ottery Hospital is also accessed by Thorne Farm Way resulting in further worries and conflicts.

Should planning permission be granted I do ask that there be a restriction be imposed on the size and weight of lorries going to the two units, and also on the time of day they go to the units: avoiding the time when students are going to or from school.

I do have some concerns about the detail of the "missing link" road construction included in the application. The proposed extension eastwards of Hansford Way does seem to be deficient in detail.

I trust the issues of road construction and road safety will be fully considered by DCC as the highway authority, and any concerns raised will be taken into account in the determination of this planning application.

I am also concerned about the type of activity to be carried on in the two units. A B1 usage of light industrial, or offices, would seem to be much more appropriate than other more intrusive industrial-type usage on this part of the estate which is close to residential properties. In the event that planning permission is granted I would urge that usage be restricted to B1.

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against."

## **REPRESENTATIONS**

### **Objections**

12 letters have been received, including one from the Otter Park Residents Association, basically endorsing the views of the Ward Member and raising the following points:

- The access to the estate is inadequate and dangerous
- Access through Hansford Way is inadequate, dangerous and detrimental to the amenities of residents of the houses that are served by the road.
- Market Lane (on the eastern side of the estate) will be used as short cut by vehicles and pedestrians through the industrial estate into Hansford Way and the Thorne Farm Way

housing estate, school and hospital to and from the town centre and the station. It is totally unsuitable for that purpose

- The proposed access would create serious highway conflict in respect of heavy goods vehicles and the existing traffic (pedestrians, cyclists and vehicles) associated with the nearby school, hospital and housing.
- Too close to nearby houses, obstructing views
- Noise pollution and general disturbance
- Decrease in property values
- Flood risk
- Risk of travellers moving onto site

### Support

No letters have been received.

### **RELEVANT PLANNING HISTORY**

<b>App.No:</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
06/1224/FUL	Erection of industrial units	Refused and subsequent appeal dismissed	11.07.2006
05/0721/FUL	Erection of industrial units	Refused and subsequent appeal dismissed	23.05.2005
99/P0083	Industrial units	Approved	27.05.1999
97/P0914	Extension of existing trading estate	Approved	25.09.1997

### **PLANNING POLICIES**

#### Devon Country Structure Plan (2001-2016)

Policy TR10 – Strategic Road Network

#### East Devon Local Plan (1995-2011)

Policy D1 – Design and Local Distinctiveness

Policy E1 – Provision of Employment Land of Local Amenity Importance

Policy E3 – Safeguarding Employment Land and Premises

Policy TA7 – Adequacy of Road Network and Site Access

### **SITE LOCATION AND DESCRIPTION**

The application site is a piece of undeveloped ground on the northern extremity of the Finimore Industrial Estate, on the western side of Ottery St Mary. It is presently only accessible from within the industrial estate, via Alans Way and the internal road system leading between existing buildings. The actual area of land involved lies alongside and just to the north-west of the site and buildings occupied by Paynes Timber Yard.

Beyond the site, to the west and north-west lies the relatively modern housing estate centred on Thorne Farm Way and accessed off its junction with Barrack Road. Also to the west of the site lies the cul-de-sac known as Hansford Way, that presently terminates at a point close to the boundaries of the houses along its northern side, but which has actually been constructed beyond that point, terminating in a wide turning head at its eastern end.

## **PROPOSED DEVELOPMENT**

This is a third application to erect two small industrial units within the irregular shaped parcel of land on the edge of the industrial estate that was the subject of two unsuccessful planning applications and appeals in 2005 and 2006.

The two units have been positioned roughly centrally within the site, to be accessed from two directions within the existing estate. The two accesses involve upgrading the northern section of the existing internal road running alongside the timber yard (through the estate via Alans Way) and extending the other entrance by a continuation of the existing turning head at the end of the Hansford Way cul-de-sac, that runs north-eastwards off Thorne Farm Way, just beyond its junction with Barrack Road.

Within the site the building would be 20m wide by 16m deep, centrally divided to provide the two units. The building has been designed with profile sheeted and rendered walls, beneath a steel sheeted roof. The precise location has been dictated by the need to meet the Environment Agency's requirement of a buffer zone between buildings on this part of the estate and the flood bank at the rear of the site, together with the need to keep a minimum distance from the gas pipe that runs along the western boundary.

Each unit would be provided with 8 car and small van parking spaces, with on-site facilities for these vehicles. Larger vehicles would use the turning heads on the approach roads within the estate.

## **CONSIDERATIONS AND ASSESSMENT**

### **Background**

Members will note under the relevant history section that this part of the Finnimore Industrial Estate has been the subject of previous applications, the most recent of which were refused and dismissed on appeal.

Insofar as the two earlier permissions are concerned, in 1997 permission was granted to extend the estate in a westerly and north-westerly direction, served off a continuation of Hansford Way. The existing road and turning head that has been constructed within the site would have been undertaken pursuant to that permission. The layout of the estate at that time indicated a mix of industrial and warehouse units, but not including all of the current site area.

The 1999 permission involved two units within the site of the 1997 scheme, but included an additional triangular piece of land that is now within this current application site. Access into these two units was again shown to be gained off a continuation of Hansford Way.

The application submitted in 2005 was for 4 industrial units on part of the site for which permission was granted in 1997 and 1999, but on this occasion the only access into the development was shown to be off the existing internal road system within the estate. This application was refused on the basis of the inadequacy of that access to serve the development. An appeal against that decision was dismissed in January 2006, with the Inspector concluding that the traffic likely to be generated by the proposal would exacerbate highway conditions on already substandard estate roads. She felt that this would be unacceptable in terms of safety and convenience for users, contrary to the objectives of the then operative Policy TA6 of the Revised Deposit Local Plan relating to the adequacy of the road network and site access.

The subsequent application submitted in 2006, following the earlier unsuccessful appeal, involved making use of two accesses into the site, one via the existing estate and the other via a new road, as a continuation of Hansford Way. That application was also refused on highway

grounds, and a subsequent appeal also dismissed. However, on this occasion the appeal was dismissed on grounds relating to the lack of detailed information relating to how vehicles would access the proposed building within the site, or how they could turn and where any parking spaces could be accommodated. The Inspector on this occasion felt that he could not deal with these detailed matters by condition and dismissed the appeal accordingly.

He did however offer a positive view upon the matter of how access could and should be obtained into the site as follows:

“I consider that the benefits of providing an improved alternative access for the existing estate outweigh the possibility that vehicles travelling to and from the appeal site might sometimes use the substandard roads through the existing estate”.

A copy of the full appeal decision dated 14<sup>th</sup> December 2006 is appended to this report, for Members information, insofar as it is now a material consideration in the Council's assessment of this new application.

### Policy considerations

The application site lies not only within the area of the estate that has been the subject of previous permissions for industrial development but also within an area that is specifically allocated as an Employment Site with Planning Permission within the Ottery St Mary Urban Inset Map 37 as part the adopted East Devon District Local Plan. In these circumstances there can continue to be no objection in principle to the development to which this application relates.

### Highway Issues

As Members will have gathered by now, the success or failure of the two most recent applications for development of this site in 2005 and 2006 depended entirely upon highway considerations, with both Inspectors who dealt with the two appeals identifying highway safety as the main issue. In particular their consideration centred on whether or not a satisfactory means of access (or accesses) existed to serve the development. The Inspector who determined the second appeal was in no doubt that utilising the existing access through the estate and continuing the existing road off Hansford Way to provide alternative routes into the site represented an acceptable solution. This application responds to that solution by proposing these two points of access into the application site from Barrack Road and notwithstanding the understandable concerns of residents in the Thorne Farm Way estate about the use of the Hansford Way access, there really is no basis now in highway terms to oppose the accesses that are proposed in this application.

The secondary consideration that led to the dismissal of the second appeal related to the inadequacy of the parking and turning facility details submitted for the development within the application site, rather than the means of gaining access to it. In this third application the Highway Authority continued to express concern about the adequacy of the internal layout details and with that in mind the applicant's agent has responded with an amended plan and letter covering most of the further details that the Highway Authority require.

In detail the amended plans and accompanying letter show:

- The building slightly repositioned within the plot, further back from the corner of the timber yard, improving access into the parking area for the easternmost unit.
- A re-configured parking arrangement to facilitate on-site turning for cars and small vans. It is claimed that in previous correspondence the Highway Authority has accepted that larger vehicles will use the turning head on the approach road to the site.
- Provision of a 2m visibility splay along the frontage of the timber yard site.

- It has also been explained that the presence of a buffer zone between the buildings and the flood bank and the alignment of a gas pipe has meant that the building could not be positioned deeper into the site. To some extent this has helped the situation for if the building was deeper into the site it would be that much closer to the houses to the north-west.
- The applicant's agent has also pointed out that matters such as drainage and lighting could if necessary be dealt with by condition. The important highway issues covered by the Inspector who dealt with the last appeal centred upon spatial considerations, relating to parking and turning that have now been dealt with.

The amended plan and covering letter were sent to the Highway Authority and following receipt of further highway concerns, more details of the access road into the site were submitted incorporating a 7.3m wide road width, 2m wide footpath and 2.4m x 33m visibility splays. At the time of preparing this report these details are still being accessed by the Highway Authority and it is anticipated that further highway comments will be available for presentation at the meeting.

### Impact on Residential Amenity

In dealing with the last application on the site the Inspector who dismissed the appeal commented that he was able to see the relationship between the appeal site and the adjoining housing and formed the view that in the location shown on the submitted plan the proposed building would not have an unacceptably adverse effect on the living conditions of those adjoining properties. He did make the point that if the building was re-sited then this may lead to a greater effect on neighbouring residents. As it turns out the flood bank and gas pipe have determined that the building cannot be moved much deeper into the site, but it has been slightly repositioned to improve the detailed parking and access arrangements.

In this slightly revised location it is still not considered to have an unacceptably adverse effect upon the residential amenities of any nearby dwellings in Thorne Farm Way. Given the distances involved and the size of the units concerned, it is felt that restricting their use to Class B1 only would not be necessary in this particular case.

### Design

In terms of design the external appearance of the proposed buildings has not changed from that previously considered. The design has not previously raised concerns in the decisions of the Council or Planning Inspectors. The design is typical of other modern industrial buildings in the area and as such no objection is raised on this basis, subject to appropriate materials being agreed under an appropriate condition if consent is granted.

### **CONCLUSIONS**

Given the past and most recent planning history of this part of the Finnimore Industrial Estate, from the grant of permission for the extension of the estate in 1997, the Local Plan land use allocation and the most recent appeal decision to the details embodied in this latest application it is considered that there can be no sustainable planning objections to this development.

Insofar as highway considerations are concerned it is anticipated that the amended plan and the applicant's agents accompanying letter will have satisfactorily dealt with the outstanding highway issues, but the recommendation acknowledges that formal confirmation will be required before a final decision can be taken.

### **RECOMMENDATION**

That in the event of the Highway Authority confirming that it no longer has any objection to the proposed development, APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason – To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
2. No development shall take place until samples of external materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area.)
3. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.  
(Reason – To prevent pollution of the water environment.)

+ any further conditions arising from the County Highway Authority's consideration of the amended layout plan.

#### Reasons for Approval

1. The proposal does not adversely affect the privacy and/or amenity of neighbouring properties.
2. The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.
3. The access to serve the proposal does not prejudice highway safety.

