

Agenda Item A9	Committee Date 11 May 2009	Application Number 09/00169/VCN
Application Site Norjac Service Station Scotland Road Carnforth Lancashire LA5 9JZ	Proposal Variation of condition numbers 2, 4, 6, 9, 11, 14 and 17 on application number 07/01793/FUL	
Name of Applicant EH Booth And Co Ltd	Name of Agent Steven Abbott Associates	
Decision Target Date 26.05.2009	Reason For Delay None	
Case Officer	Andrew Drummond	
Departure	No.	
Summary of Recommendation	Approve – Variation of conditions	

1.0 The Site and its Surroundings

- 1.1 The site falls about 70m north east of the main crossroads in Carnforth (Market Street, Kellet Road and A6) on the west side of Scotland Road (A6). This roadside site is level with Scotland Road, though the ground falls away to the west, so a retaining wall forms the western boundary of the site. Until a few years ago the site had been occupied by a filling station business, but that use has now ceased and the site has fallen into dereliction. The site covers an area of 0.115 hectares.
- 1.2 Immediately to the west of the application site lies Booths supermarket and its associated car park, though due to the local topography the ground floor of the supermarket is about 3-4 metres lower than the forecourt of the old filling station. The access to the supermarket is located to the north of the application site, with Scotland Road (A6) forming the eastern boundary. A terrace of residential properties is situated on the opposite side of the road with a further group of domestic dwellings situated at a higher level on Oliver Place further to the east. A motorcycle shop, with its small car park, lies to the south of the site and forms the start of the central retail area in the town.
- The application site is located within a 5 minute walk of Carnforth railway station, and is served by bus stops along Scotland Road. The M6 motorway can be accessed via junction 35 less than one mile to the east.
- 1.3 The site is within the urban area of Carnforth, though it falls just outside the town centre as defined for retail purposes in the Lancaster District Local Plan. Scotland Road, which forms the eastern boundary of the site, is an access corridor.

2.0 **The Proposal**

- 2.1 The site has planning permission (07/01793/FUL) to demolish the existing structures and to construct a mixed-use development comprising sub-basement and basement car parking, ground floor retail space and up to 4 floors of residential accommodation (24 apartments).
- 2.2 Planning approval was granted for this scheme subject to a number of conditions. Unfortunately since the decision notice was granted, the market has taken a downturn. Despite marketing the site, the applicant has not yet been able to secure a buyer to develop the approved scheme. The site has remained derelict in the interim.
- 2.3 Instead of the site remaining an eye-sore for the foreseeable future, until the market makes a positive change and a developer comes forward to construct the approved scheme, the applicant wishes to tidy up the site. In doing so, the applicant would decontaminate the site, secure the retaining walls and landscape the north section of the site.
- 2.4 However, in accordance with the conditions attached to the permission, the applicant cannot commence work on site without providing details that relate to the mixed-use development. It is therefore sought to vary 7 such conditions to allow the necessary works to be undertaken so the site can be tidied up, whilst not jeopardising the future development of the site.
- 2.5 The 7 conditions in question are as follows. The case officer has highlighted the text that the applicant seeks to vary:

Condition 2 - Notwithstanding the details shown on the submitted plans, **no development** shall take place until an amended plan omitting the balconies on the Scotland Road elevation of the development has been submitted to and approved by the Local Planning Authority in writing.

Condition 4 - Notwithstanding the details indicated on the approved plans and supporting documents, **no development** shall commence until details of the materials to be used on the external elevations have been submitted to, and approved in writing by, the Local Planning Authority. The building shall then be constructed in accordance with the approved plans.

Condition 6 - **No development** shall take place until the details of the ventilation and extraction equipment associated with the building have been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be constructed in accordance with the approved details.

Condition 9 - **No development** shall take place until details of covered and secured cycle storage and associated show and changing facilities have been submitted to, and approved in writing by, the Local Planning Authority. The detail shall accord with the Lancashire County Council Parking Standards. The scheme shall be implemented in accordance with the approved details before the first occupation/use of the building. The facilities shall be retained at all times thereafter.

Condition 11 - **No construction of the development** shall commence until an Air Quality Assessment has been undertaken to determine the impacts of existing and post-building air quality. The nature, scope and methodology for the Assessment shall be submitted to, and approved in writing by, the Local Planning Authority. The building shall thereafter incorporate any measures identified as necessary as a result of the Assessment.

Condition 14 - **No development** shall commence until full details of a sound insulation scheme have been submitted to, and approved in writing by, the Local Planning Authority. The building shall then be constructed in accordance with the approved details.

Condition 17 - The approved building shall provide for a minimum of five affordable units. **The development shall not** commence until the developer has entered into a scheme for the provision of affordable housing in the form of five affordable units which has been agreed and approved in writing by the Local Planning Authority.

3.0 Site History

3.1 A number of relevant applications relating to this site have been previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
06/00796/OUT	Outline application for a mixed use development comprising A1-A5 business uses and residential units above.	Permitted
07/00284/RCN	Removal of condition 21 on application 06/00796/OUT to permit A4 (Drinking Establishment) uses in addition to other previously approved uses, and the variation of condition 23 to allow varied hours of opening	Permitted
07/01793/FUL	Redevelopment of former petrol filling station on Scotland Road. Proposed mixed use development comprising of Class A1 to A5 on the ground floor over car parking and residential (apartments) above and adjustment to existing store parking	Permitted

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
County Highways	No objection.
Environment Agency	No objection.
United Utilities	No objection.
Carnforth Town Council	The Town Council objects to the proposal on the basis that by allowing early works to be undertaken it would in effect commence the applicant's permission; resulting in the permission becoming open-ended (i.e. it would remove the certainty of when commencement of the approved mixed-use development occurs).
Environmental Health	No objection.
Economic Development	Comments not received at the time of compiling this report - comments will be reported verbally.

5.0 Neighbour Representations

5.1 No correspondence has been received at the time of compiling this report. Any comments subsequently received will be reported verbally.

6.0 Principal Development Plan Policies

6.1 National Planning Policy Statement (PPS) 1 - Delivering Sustainable Development – is relevant and provides generic advice on developing sites. In particular, proposals should optimise the potential of the site to accommodate development, respond to the local context and create diverse and sustainable uses and environments. The use of environmental technologies, high-quality architecture and protection of natural assets are all fundamental themes, as is the emphasis on sustainable transportation. Schemes that do not take the opportunity to improve the character of an area, or fail to provide a mix of uses and linkages that would create vibrant places, should not be accepted.

6.2 Regional Spatial Strategy - adopted September 2008 - Policy EM2 - Remediating Contaminated Land - is relevant and states that schemes should encourage the use of sustainable remediation technologies.

6.3 Lancaster District Core Strategy - adopted July 2008 – Policies SC1, SC5, SC6, ER2 and E1 are relevant.

Policy SC1 - Sustainable Development - The Council would support proposals where the current use, appearance or condition of the site causes adverse environmental impacts which could be alleviated through development. In other words, the proposal would clean up contamination and other environmental problems associated with the site.

Policy SC5 - Achieving Quality in Design - New development is of a quality which reflects and enhances the positive characteristics of its surroundings resulting in an improved appearance where conditions are unsatisfactory.

Policy SC6 - Crime and Community Safety - Using development to remove dereliction and eyesore sites, particularly in Regeneration Priority Areas.

Policy ER2 - Regeneration Priority Areas - The development of derelict sites in the market town of Carnforth.

Policy E1 - Environmental Capital - directing development to locations where previously developed land can be recycled and re-used, dereliction cleared and contamination remediated.

7.0 Comment and Analysis

7.1 As previously stated, the site has fallen into dereliction and has become an eye-sore on the side of a main access corridor through Carnforth. By amending the 7 conditions described in paragraph 2.5 to allow certain works to occur prior to the requiring details relating specifically to the mixed-use development, the site can be decontaminated, tidied up and landscaped in line with the 07/01793/FUL permission. This will greatly improve the urban setting of this very visible, roadside site on a main access route through Carnforth.

7.2 Whilst the Council promotes and encourages the remediation and tidying up of key sites within strategic urban areas, such as the market town of Carnforth, it would not support a submission that could jeopardise the future development of that site. However, the variations sought would not risk the delivery of the approved mixed-use scheme, though it is recognised that the timescales for its delivery is reliant on the market.

7.3 Nevertheless the applicant remains committed to the development of this site, if for no other reason than they have already, and will continue, to invest its own financial resources into it. They are continuing to market this development opportunity as they need to sell the site with its permission to get any reasonable return on its substantial investment. They are therefore keen to see the development of the mixed-use scheme progressed at the earliest possible time. Whether the permission is commenced or not, the delivery of this development is very much tied up with the market. If the permission is not commenced it could potentially lapse prior to an upturn in the market, which would mean that the applicant would either need to apply to renew their permission or for a difference scheme. The Town Council, plus consultees, would then have the opportunity to comment the relevant application at that time. In other words, the approved mixed-use development is satisfactory; any changed scheme would require a fresh application which would be consulted upon. The issue in question is not one of acceptability if the scheme itself, but rather one of timing. As this is connected to the market, it currently makes little difference if the existing permission is commenced or not. Likewise, with or without commencement the applicant has a very good incentive to progress development of the mixed-use scheme and is therefore continuing to market this development opportunity to realise a return on its investment as soon as possible.

7.4 When weighing up all these factors, including the benefit of having a tidy site in the interim period, the variation of the subject conditions (which in turn allows for the commencement of the 07/01793/FUL permission subject to other conditions being met prior to work starting on site), is deemed an acceptable compromise.

8.0 Conclusions

8.1 For the reasons set out above, it is recommended that the 7 conditions are varied so the site can be tidied up whilst the development opportunity continues to be marketed.

Recommendation

That **PLANNING PERMISSION BE GRANTED FOR THE VARIATION OF CONDITIONS 2, 4, 6, 9, 11, 14 and 17** (attached to planning permission 07/01793/FUL) as follows:

That in respect of **conditions 2, 4, 6, 9, and 14** the wording be altered so that the phrase "**no development**" shall be replaced with the wording "**no construction work on the approved building (with the exception of the demolition and removal of the filling station buildings, structures and related infrastructure, landscaping [including any incidental engineering operations or operational development required to facilitate it], land remediation, the construction of retaining walls and alterations to the existing town centre car park)**"

That the wording of **condition 11** be altered so that the phrase "**no construction of the development**" shall be replaced with the wording "**no construction work on the approved building (with the exception of the demolition and removal of the filling station buildings, structures and related infrastructure, landscaping [including any incidental engineering operations or operational development required to facilitate it], land remediation, the construction of retaining walls and alterations to the existing town centre car park)**"

That the wording of **condition 17** be altered so that the phrase "**The development shall not**" shall be replaced with the wording "**no construction work on the approved building (with the exception of the demolition and removal of the filling station buildings, structures and related infrastructure, landscaping [including any incidental engineering operations or operational development required to facilitate it], land remediation, the construction of retaining walls and alterations to the existing town centre car park)**"

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.