

DC/2015/00767

RETENTION AND COMPLETION OF A NEW MEDICAL OFFICE

SITE OF THE FORMER PUBLIC TOILETS, TINTERN

RECOMMENDATION: APPROVE

Case Officer: Kate Young

Date Registered: 15/07/15

1.0 APPLICATION DETAILS

- 1.1 In July 2014 planning permission was granted for the conversion of the former public toilets in Tintern to be converted into a premises from which to run a podiatrist business. The conversion was not carried out in accordance with the approved plans and the building was demolished. This current application seeks to regularise the situation and is seeking retrospective permission for the erection of a new building to house the podiatry business. Although the building does provide the same footprint, the new building contains an under-croft and altered fenestration details. The proposal includes three new parking spaces and a concrete ramp up to the front door. The building will be finished in render and timber boarding with a slate roof. The site is adjacent to the main road in Tintern next to Ashweir Court which is made up of converted workshops. The site is within the Tintern Conservation Area, The Wye Valley Area of Outstanding Natural Beauty and adjacent to the River Wye Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). A Bat Scoping Survey Report and Flood Consequences Assessment (FCA) were submitted as part of the application.
- 1.2 Since the original submission an updated FCA has been submitted showing the proposed storage space in the under-croft to become a void.

2.0 RELEVANT PLANNING HISTORY

DC/2013/01061 Conversion of former toilet block into a podiatrist business. Approved 30/07/14

DC/2014/00972 – Discharge of Condition Archaeological written scheme of investigation – Approved 27/08/14

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

- S10 – Rural Enterprise
- S12 – Efficient Resource Use and Flood Risk
- S17 - Place Making and Design

Development Management Policies

- EP1 Amenity and Environmental Protection
- DES1 General Design Considerations
- RE1 – Employment within Villages
- RE2 – Conversion or Rehabilitation of Building in the Open Countryside for Employment Use

SD3 – Flood risk
NE1 - Nature Conservation and Development
HE1 - Development in Conservation Areas
HE2 – Alterations to Unlisted Buildings in Conservation Areas

4.0 REPRESENTATIONS

4.1 Consultation Replies

Tintern Community Council – recommends refusal.

1. This is a retrospective application and TCC cannot see any justifiable reason for the application not having been submitted in advance of work being undertaken.
2. Building has continued despite the applicants being served an Enforcement Order. TCC cannot understand why MCC do not appear to have the powers to enforce orders in cases like this, or choose to do so.
3. The current retrospective application is for a new build which is different from the original application which was for conversion and extension of the former public toilets, not for total replacement.
4. The new application does not appear to have been submitted to GGAT yet. As the applicant now proposes an under-croft the original brief was for approved excavation work and the Flood Consequence Assessment supplied was for the original application and does not take into account the proposed under-croft. There was no under-croft proposed in the original application and it is understood the under croft is already completed.
5. The building has been constructed in breach of the original covenant as when the toilets were built the Diocesan Board allowed them on the condition that there was a public convenience on the site, none has been provided.
6. Provision of adequate Parking Spaces – This was not properly addressed in the original application, nor has it been in the current application. When permission for Ashweir Court was granted it specified three spaces per unit. It is now proposed that the same area be used for three parking spaces for the proposed new building and no additional space has been made available. This means that there is in fact only one parking space off the main road.

TCC are particularly concerned about the plethora of retrospective applications which now seems to have become the normal practice for some community members. The ability to do this invalidates the whole ethos of the legislation and procedures. We have already requested that this application goes before a full committee meeting and we would like the opportunity of speaking at any meeting, especially as we were not given the opportunity of attending the original site meeting between the applicant and planning officers.

MCC Highways

This application should be deferred for pedestrian access to be re-evaluated and amended.

This site and conversion has been the subject of a previous application DC/2013/01061.

The access and parking for offices was discussed and comments are reiterated here for office and clinic. However the customer base must be carefully managed so that there is always customer parking available on site.

The pedestrian route to the building is however only available from a parking place and not linked to the public highway. Therefore there is no accessibility for pedestrians. This is unsustainable as there is no access for non-drivers. This must be addressed.

Natural Resources Wales (NRW)

The site lies entirely within Zone C2, as defined by the Development Advice Maps (DAM) referred to in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be within the 0.5% (1 in 200 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Wye. Our records show that the proposed site has also previously flooded from the River Wye in December 1981.

With reference to TAN15, the decision as to whether a development is justified in Zone C2 is entirely a matter for your authority. We refer you to section 6 of TAN15 in this regard.

The previously approved application (DC/2013/01061) was supported by a flood consequences assessment (FCA). This concluded that an extreme tidal event on the River Wye is unlikely to impact on the proposed development, as submitted, given its designed finished ground floor level of 11.150 metres Above Ordnance Datum (m AOD). The FCA provided a summary of the likely flooding mechanism in this location.

An amended plan entitled "Proposed Plans", Drg. No 1235/02 Rev C was submitted in support of the above application, which we received on 22 December 2016. Drg 1235/02 Rev C shows that the previous "ground floor storage area" will now be a "void space" instead with no use proposed. The letter from WYG, dated 18 December 2015, reference FMW1399 states that "as the ground floor will now have no use, it be allowed to flood in the most extreme of rainfall events". However, this information does not enable us to advise your authority on the risks and consequences of flooding to and from the proposal. Without an amended supporting FCA (including the ground floor levels) based on the latest design we cannot provide further advice in line with TAN15. Therefore, our advice remains as set out in our letter of 20 August 2015, reference SE/2015/119311/01.

You should note that the latest proposal allows the "void space" to flood in times of the most extreme rainfall events. We would normally advise against the use voids to mitigate flood risk, one reason for this is that it is difficult to ensure they remain clear throughout the life time of development.

Comments received from NRW 20/08/15

The previously approved application (DC/2013/01061) was supported by a flood consequences assessment (FCA). This concluded that an extreme tidal event on the River Wye is unlikely to impact on the proposed development, as submitted, given its designed finished ground floor level of 11.150 metres Above Ordnance Datum (m AOD). The FCA provided a summary of the likely flooding mechanism in this location

The same FCA has been submitted in support of the retention and completion of works to the building. The new proposals include a lower finished ground level, which is to be used as under-croft storage. No figures are given on its finished level to ordnance datum. In addition it is unclear how the under-croft storage has been constructed, for example has the works to excavate below the building created a potential flow path which could convey water into the site. This is important because the FCA considered the mechanism of flooding would be a low spot opposite the Rose and Crown Pub, with flood water backing up on Main Road towards the building. The FCA concluded that the finished ground level of the building

(11.150mAOD) was considered high enough not for flood water to reach. As the new finished ground level is lower and there could be a route into the buildings at the rear, there is a reasonable possibility of flood risk to the building given its new design.

As such the FCA should be amended to assess new risks and consequences of flooding and demonstrate whether the risks to the building can be acceptably managed in line with the criteria set out in TAN15.

Therefore, we are unable to advise your Authority on the risks and consequences of flooding as proposed. We advise that an amended FCA is undertaken by the applicant prior to determination of this application. The FCA should include an assessment on the risks and consequences to and from the under-croft storage area, the finished ground level of the building, any new flood routes created and the mechanisms of flooding. The FCA should assess appropriate mitigation measures necessary.

If, contrary to TAN15, your Authority is minded to grant permission, we should be informed of all matters that influence this decision, prior to granting permission, allowing sufficient time for further representations to be made. We are required to report to the Welsh Government those instances in which recommendations for refusal on grounds of flood risk, have not been accepted by Local Planning Authorities. Therefore, if planning permission is granted contrary to our recommendation, we would be grateful if you would provide us with a copy of the Committee report, relevant Committee minutes and the decision notice.

MCC Biodiversity

Comments made by my colleague Aidan Neary on the previous scheme DC/2013/01061 (attached) are still relevant to the case. However, I understand that the building has now been substantially completed and as such the matters considered for the construction phase in Habitats Regulations Assessment are now irrelevant.

It is noted that the information submitted with the application indicated that there would be two external lights which includes a single low intensity light adjacent to the customer entrance and a single (1m high) low intensity light in the car park. The Habitats Regulation Assessment is based upon this.

Natural Resources Wales do not need to be consulted on the updated HRA as the conclusion is that there will not be a significant effect on the River Wye SAC.

Previous comments sent 24/06/14

I have received a copy of the bat scoping survey report undertaken by Merlin Bio Surveys dated September 2013. I am satisfied with the reports findings and conclusions which state that the existing building does not provide suitable bat roosting features. Therefore a European Protected Species (EPS) Licence is not required but as the proposal involves substantial alterations to the building, standard informatives will be required

4.2 Neighbour Notification

Letters received from four addresses

This new build application is different from the original application for conversion. The building is now substantially complete.

No indication that the WSI has been carried out.

Inadequate parking provision Implications for flooding now there is an under croft.

MCC is incapable of enforcing an enforcement order

No archaeological report has been submitted.

The treatment room is on the first floor with no means of access for those with minimal mobility.

The building looks like a house.

Parking has not adequately been addressed

Site is subject to flooding

Encroachment onto neighbour's land

Do not believe that the two basement rooms will be left as voids, who will monitor this?

Parking should be in the under-croft below the building

One Letter of support.

5.0 EVALUATION

5.1 Principle of Development.

5.1.1 Policy RE1 of the LDP states that construction of small scale purpose-built business will be permitted within or adjoining main villages, although Tintern is not classified as a main village, rather it is classified within Policy S1 as a minor village. There is no specific policy relating to business development (either new build or conversion) in minor villages. Policy RE2 of the LDP does allow for the conversion or rehabilitation of buildings in the open countryside to employment use provided that specific criteria are met. Generally the Council seeks to encourage economic enterprise and the creation of new jobs within the County, in suitable locations. It would appear that a new business enterprise in an existing settlement should be encouraged. The fact that approval has recently been granted for a conversion of this site also gives weight to the principle of allowing a business use here. The principle of this development is considered acceptable given its reasonably sustainable location adjacent to existing buildings in the centre of Tintern and the main road.

5.2 Visual Impact

5.2.1 The building is situated within the Tintern Conservation Area (CA). Policy HE1 of the LDP requires that developments in CAs should preserve or enhance the character and appearance of the area. Policy HE2 states that permission will be refused where proposals are unsympathetic to existing buildings or detract from the overall appearance of the CA. In this case permission has already been granted for the conversion and extension of the old toilet block, which had no particular architectural merit. That approval included an extension at the side and alterations to the finishing materials and raising the height of the ridge. At that time the scheme was considered acceptable and the application subsequently approved. The current application relates to a new building. However when viewed from the front, including views from the road the proposed new build looks the same as the approved scheme. At the back of the property the developers have excavated up to 2 metres of ground and provided an under-croft. When viewed from the river and the rear of the property the building looks considerably larger than the approved scheme; this also applies to a lesser extent when viewing the building from the sides. The building as built does have a greater visual impact than the scheme that was approved especially when viewed from the river or the rear of the property. Notwithstanding this, the principal view of this building is when seen from the front and from the A466. From this vantage point there is little difference in the appearance of the building from the approved scheme and it is this elevation that has the greatest impact upon the character of the CA. On balance it is considered that the visual appearance of the building is acceptable and appropriate for its setting. The building has reconstituted slate on the roof and dark stained weather boarding and the lower portion is rendered a light green in colour. These materials are

considered appropriate. While weather-boarding has not been used in general on buildings in this area, it is an appropriate material for commercial premises and is regarded as a traditional material for riverside or wharf-side buildings such as would be located in this setting by the Wye.

5.3 Flooding

5.3.1 The current application seeks permission for an under-croft to the building. This has been achieved by excavating the ground levels under and surrounding the building. The site lies within a C2 flood zone and the site is known to flood. The applicants have submitted an FCA with the application. This initially showed the ground floor being used as a storage area but was then amended to show a void space which “will be allowed to flood in the most extreme of rainfall events”. A possible problem with taking this approach is that in general it is difficult to guarantee the ground floor will be kept as a void and not be used for other purposes for the lifetime of the building. However, it is considered that the maintenance of the voids could be secured through a planning condition and could be monitored given that there are public views towards the rear of the site from the public right of way crossing the Old Tramway Bridge. The proposed use as a podiatry clinic is classified as ‘less vulnerable development’ in TAN 15 as people will not be living in the premises and will only be visiting the site during the day. NRW agreed as part of the previous application that the use was acceptable on the ground and first floor levels. The only area for consideration now is the under-croft that is to be used as a void space. The flooding of this void space will not endanger human life. The void will be allowed to flood during extreme events and thus will not affect the flooding levels in surrounding areas. Officers of the Council have taken into account the fact that the under-croft void of this building will be liable to flooding in extreme events but consider that the results of this flooding could be acceptably managed and that this is not a sufficient reason to justify refusal of the application especially given that this use on the ground and first floors already has permission.

5.4 Parking and access

5.4.1 The amended site plan received September 2015 indicates six off road car parking spaces including one disabled bay accessed directly off the A466, two at the side of the property and three to the rear, these being accessed from Ashweir Court. The adopted Parking Standards would require three parking spaces for a business of this size, so over provision of parking is being provided. The disabled parking bay would have no turning bay within the site and therefore the vehicles would have to reverse out onto the main road, this is the same situation that was approved previously and at that time the Council’s Highway Engineers had no objection to the proposal. There are many other similar parking arrangements throughout this area of Tintern.

5.5 Residential Amenity

5.5.1 The building is adjacent to Ashweir Court which comprises of workshops and offices. There is a residential property on the opposite side of the road, but given its elevated position and the intervening road, the proposal would not have a detrimental impact on the amenity of the occupiers of that dwelling. The impact of this building upon neighbouring residential properties is the same as for the scheme that was approved in July 2014.

5.6 Biodiversity

5.6.1 A bat scoping survey was carried out on the building in September 2013 which found no features that would provide a roost for bats and no sign that bats had used the

building. During the course of the previous application, DC/2013/01061, the Council's Ecologist was satisfied with the findings of the bat scoping survey which stated that the existing building did not provide suitable bat roosting features; therefore no further survey or ESP licence was required.

5.6.2 A Habitats Regulations Assessment (HRA) was carried out for the site as part of the previous application and re-submitted with the current application. It found that the proposal is unlikely to have a significant effect on the River Wye Special Area of Conservation (SAC). NRW agreed with those conclusions.

5.7 Economic Development

5.7.1 The podiatrist business when fully operational could employ up to 5 full time posts.

5.7 Response to Community Council Representations

5.7.1 This is a retrospective application, but this should make no difference as to how the application is determined. The application needs to be determined on its planning merits. The Council does not punish applicants for retrospective applications. In August 2014 a condition was discharged relating to an archaeological written scheme of investigation. Although this related to a different application the area of investigation was the same. The FCA has now been updated to reflect the under-croft. Any covenant on the building is a private legal matter between the parties and not a concern of the local planning authority. The site plan now indicates six parking spaces, one accessed off the A466 and the other five are at the rear of the building accessed from Ashweir Court. Two of these are newly formed parking bays and three of these are on an area of road that was previously used to store a caravan, and formed part of the parking for the adjacent workshops when they were approved. At that time a condition was imposed so that the car parking spaces be retained for the parking of vehicles in general; the current proposal is not in breach of that condition but the vehicles being parked there could be related to the podiatry clinic rather than for the adjacent workshops. These car parking spaces can be used in general for employment uses on Ashweir Court rather than being tied to specific units. The fact that these spaces were being used to store a caravan would indicate that there was not a full demand for these spaces in any case and overall there would be adequate parking for both the workshops and the proposed podiatry business.

6.0 **RECOMMENDATION: Approve**

Conditions

1	The development shall be carried out in accordance with the approved plans
2	Before the building is first occupied the parking provision shown on the site plan at scale 1:200 on drawing 1235/2 Rev C September 2015 shall be available for use and shall be retained for the use of parking for the occupiers of the building, hereby approved, thereafter.
3	Before the building is first occupied the proposed access shall have a hard surface of concrete or a bituminous material for a minimum distance of 5 metres from the highway boundary.
4	The premises shall be used for medical consulting rooms and ancillary purposes only and for no other purpose (including any other purpose in Class D1 of the

	schedule to the Town and Country Planning (Use Classes) Order 1987 or any Order re-enacting that Order) without the prior written approval of the Local Planning Authority
5	No surface water shall be permitted to drain from the site onto the adjoining highway or into the highway drainage system.
6	The under-croft area shown on drawing 1235/3 Rev. B shall be kept as an open void at all times and shall not be filled in or used for storage or any other use. Reason: to ensure the development does not displace flood water and contribute to flooding of nearby properties.

Informatives

Standard Bat Informative.