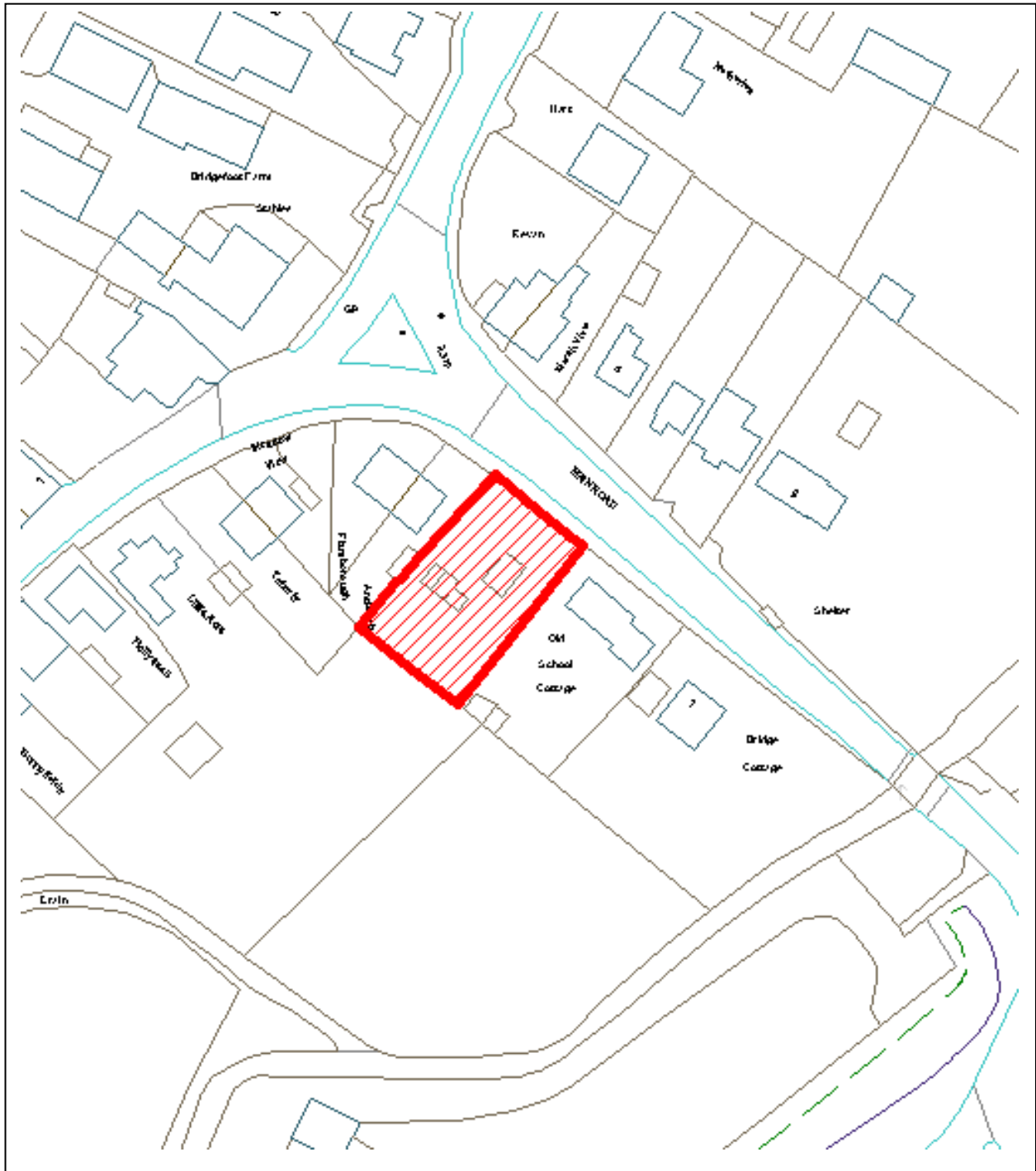


PLANNING COMMITTEE

26 JULY 2011

REPORT OF THE TEMPORARY HEAD OF PLANNING SERVICES

A.8 PLANNING APPLICATION - 11/00514/FUL - F PAGE BUTCHERS , 5 MAIN ROAD, RAMSEY, CO12 5EY



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Application:	11/00514/FUL	Town/Parish:	Ramsey & Parkeston Parish Council
Applicant:	Mrs M Barrowcliffe		
Address:	F Page Butchers 5 Main Road Ramsey, CO12 5EY		
Development:	Stationing of mobile fish stall at front of forecourt.		

1. Executive Summary

- 1.1 Councillor Tony Colbourne has referred this application to the committee as it is a long established business that provides a valuable service to the local community which would have no significant adverse impact on the local area.
- 1.2 This proposal seeks the permanent siting of a mobile fish stall within the forecourt of F Page Butchers in Ramsey. This proposal follows the granting of a number of temporary permissions for the siting of the stall and the refusal for the permanent siting in 2010. The previous development was considered to fail policies QL9, QL11 and ER40 of the development plan. The applicant has put forward personal circumstances in support of the case for a permanent personal permission. Officers consider that these do not carry sufficient weight to overcome the strong policy objections and there have been no other significant changes to either local or national planning guidance since 2010 that would give weight to an approval. However, should members wish to give greater weight to the personal circumstances of the applicants they may wish to consider whether, on balance there is a case for a personal permission.

Recommendation: Refuse

Reason for refusal:

The proposal is considered contrary to policies ER40, QL9 and QL11 of the Tendring District Local Plan (2007). Policy ER40 states proposals for forecourt trading will be permitted subject to, inter alia, the character or appearance of an area not being detrimentally affected and the proposal not involving the permanent placing of stalls or kiosks on the forecourt. Policy QL9 states that planning permission will only be granted if, amongst other things, the development relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials, and new structures are well designed and should maintain or enhance local character and distinctiveness. Policy QL11, inter alia, states that new development will only be permitted if the scale and nature of the development is appropriate to its locality.

The site is situated in Ramsey village within a forecourt area serving a butchers shop. The fish stall is operated from a moveable stall. In this instance the application seeks the permanent siting of the stall. The stall is considered visually prominent along the frontage and due to its temporary appearance would be detrimental to the character and appearance of the locality. In addition the policy clearly states that the proposal should not involve the permanent placing of a stall on the forecourt. The proposal as submitted is therefore contrary to policies ER40 b) and e), QL9 (i) and (ii) and QL11 (i). The personal circumstances put forward by the applicant are not considered sufficient to overcome these strong policy objections.

2. Planning Policy

National Policy:

Government Guidance:

PPS1 Delivering Sustainable Development

Local Plan Policy:

Tendring District Local Plan 2007

QL9 Design of New Development

QL11 Environmental Impacts and Compatibility of Uses

ER40 Forecourt Trading

Core Strategy and Development Policies Proposed Submission Draft

DP1 Design of New Development

3. Relevant Planning History

00/02093/FUL	Mobile fish stall on forecourt	Approved	15.02.2001
02/01890/FUL	Renewal of planning permission 00/02093/FUL for mobile fish stall on forecourt.	Approved	03.12.2002
03/01137/FUL	Variation of Condition 03 of planning permission 02/01890/FUL to allow fish stall to remain in a permanent position.	Approved	15.10.2003
05/00324/FUL	Permanent permission to keep stall in position at front of forecourt without moving it adjacent to butcher shop when not trading.	Refused	04.05.2005
05/00945/FUL	To keep stall in position at front of forecourt without moving it adjacent to butcher shop when not trading	Approved	15.07.2005
10/00713/FUL	Stationing of mobile fish stall at front of forecourt, to be used for the sale of fish, and to keep stall in position at front of forecourt without moving it adjacent to butchers shop when not trading.	Refused	06.09.2010

4. Consultations

- 4.1 Ramsey and Parkeston Parish Council support the application as this is a unique business in the local area and has links with those visiting the butchers;
- 4.2 Essex County Council Highways Authority raises no objections to the proposed development.

5. Representations

5.1 11 letters have been received which support of the application for the following reasons:

- The stall has been there for 10 years;
- Always clean and tidy;
- Benefit to community;
- Benefit to local economy;
- Development accords with Local Policy;
- Development is environmentally friendly.

5.2 2 Letters of objection have been received which raise the following concerns: are summarized below:

- Detrimental affect on the character and appearance of the area;
- Noise, smell and other disturbance caused;
- Permanent positioning against Policy.

5.3 Councillor Tony Colbourne has requested that the application is considered by the Planning Committee for the following reasons:

- Although contrary to ER40 in some respects there would be no highways impact; would have a positive impact on the street scene and would not increase flood risk;
- This is a long established business of benefit to the local community;
- Ramsey does not have a lot of retail facilities and loss would deprive residents of a valuable service;
- Contrary to the overall aims of Chapters 2 & 3 of the Local Plan.

6. Assessment

The main planning considerations are:

- Context;
- Policy Considerations;
- Planning History, and;
- Impact.

Context

Site Description

- 6.1 This application relates to a forecourt area belonging to a butcher's shop, which is set towards the rear of the forecourt area. The application itself relates to a small mobile unit, which is located alongside the south eastern boundary of the site adjacent to Main Road. Behind the stall is a well established hedge which separates the site from the adjoining residential property. The frontage of the site is open.
- 6.2 The site is located within the defined settlement boundary of Ramsey, but not within the Conservation Area. The site is also located within a Flood Zone 3a.

Proposal

- 6.3 Planning permission is sought to station a mobile fish stall at front of the forecourt to be used for the sale of fish and to keep the stall in position at the front of forecourt when not trading.
- 6.4 The applicant has put forward the following circumstances in support of a personal permission for the development:
- The applicant has traded at the stall for some 10 years and caused no disturbance in that time;
 - The operating hours are limited to only 2½ days per week;
 - Provides an amenity for local people;
 - Not possible to combine with adjoining butcher;
 - Nowhere else to go if forced to move;
 - Waste dealt with each day and site left tidy and clean;
 - Significant local support including Parish Council.

Policy Considerations

- 6.5 The proposed development has been assessed against Policies QL9, QL11 and ER40 of the Tendring District Local Plan (2007). The main policy is ER40 - 'Forecourt Trading', which states that forecourt trading will only be permitted subject to the following criteria:
- a) Traffic or pedestrian safety would not be put at risk;
 - b) The character or appearance of an area would not be detrimentally affected;
 - c) Noise and other forms of disturbance would not be caused;
 - d) Car parking spaces would not be lost, and
 - e) The proposal would not involve the permanent placing of stalls or kiosks on the forecourt.
- 6.6 These policies are given greater emphasis through Planning Policy Statement 1: Delivering Sustainable Development (2005), which seeks to ensure that design is appropriate in its context and takes the opportunities available for improving the character and quality of an area.

Planning History

- 6.7 This application has been submitted as a full planning application, not an application to vary condition 01 of 05/00945/FUL which expired on 15 July 2010. As such this application is seeking the permanent stationing of the fish stall. However, the reason to impose condition 01 of 05/00945/FUL was in view of the temporary nature of the structure (fish stall) and to prevent piecemeal and potentially unsightly form of display and in the interests of public safety and amenity.
- 6.8 The planning history indicates since the first permission was granted for a temporary period in 2001 (00/02093/FUL), 3 further permissions have been granted to retain the fish stall for temporary periods at a time. A planning application was submitted in 2005 (05/00324/FUL) for the permanent positioning of the fish stall but was refused as contrary to policy which included the following wording: *The stall is considered prominent and visible along the frontage and due to its temporary appearance would create harm in the residential area. In addition the policy clearly states that it would not involve the permanent placing of a stall.* The current Local Plan Policy is similar to that in 2005.

- 6.9 Following this refusal a further temporary permission was granted for a further 5 years, with a condition requiring the removal of the fish stall at the end of 5 years i.e. on 15 July 2010. The reason for this condition was quite clear in that the proposal was not considered to be appropriate for a permanent permission.
- 6.10 Application 10/00713/FUL for the permanent siting of the fish stall was refused under delegated powers as being contrary to policies QL9, QL11 and ER40. This application differs from that previously refused only by the inclusion of a letter from the applicant seeking a personal permission. No national or local planning policy guidance has changed in the intervening time which would alter the Officer recommendation. The fish stall is still in situ on the forecourt of the site.

Impact

- 6.11 It is considered the siting of the stall would not be harmful to highway safety and in addition there would be no significant loss of car parking spaces. Whilst Environmental Services have not commented on this application, it is noted that objections have been received from Old School Cottage, the property adjacent to the site, on the grounds of noise and smell to this and all previous applications for the development. This impact is limited due to the restricted opening hours.
- 6.12 The stall by its very nature is a temporary structure and whilst screened from some views by the adjacent hedge it would be prominent from others and could not be considered to enhance the character or appearance of the area. The previous temporary consent was imposed in order that the matter could be reviewed at the end of the temporary period. Therefore, it would not be appropriate in planning terms to grant a further temporary permission as there has been adequate time to assess the impact of the use. There is also no indication that the application only wants the stall for a short temporary period, after which it would be removed. Officers consider that in accordance with policy ER40 the retention of this structure permanently or for a further temporary period would not be acceptable due to its impact.
- 6.13 This stance is further supported within Circular 11/95 'Use of conditions in planning permissions'. Paragraph 111 refers to '*trial runs*' and where an application is made for permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. Furthermore, paragraph 112 states a second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where highway or redevelopment proposals have been postponed, or in cases of hardship where temporary instead of personal permission has been granted for a change of use.
- 6.14 In this instance it is considered a sufficiently long period of time (10 years plus) has already been given for the temporary siting of the fish stall, unfortunately no information has been provided giving any evidence of exploration for a permanent location. Given the limited opening hours one possible consideration would have been limiting the stationing of the stall on the site for that period only, as a market stall might be. This would help to limit the impact of the stall. However, the applicant has indicated that this not an option given the condition of the stall and the physical strength required to hitch it to a vehicle each time. Combining the fish sales with the butchers shop, including the possibility of extending the existing building has been considered by the parties concerned but has not been found to be a viable or commercially acceptable arrangement.

6.15 Following the refusal of the 2010 application the applicant has put forward personal circumstances to seek to justify a personal permission as a way of overcoming the policy objections. Normally planning permission runs with the land and the guidance in the Circular is that *it is seldom desirable to provide otherwise*. There are occasions, however, where it may be considered appropriate to exceptionally grant permission for a use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. In such a case the permission should normally be made subject to a condition that it shall enure only for the benefit of a named person, usually the applicant. Members may consider that In this case, given the unique personal circumstances of the applicant, that permission could be granted on this basis. This will be a matter for members to consider whether on balance these circumstances outweigh the strong policy objections.

6.16 Officers acknowledge that the enterprise is seen as a valuable community resource (as evidenced by the level of support from the local community), but consider, as a matter of judgement that the circumstances put forward do not carry sufficient weight and, therefore, the application is recommended for refusal.

Background Papers

None