

Application Number: F/YR13/0733/F
Major
Parish/Ward: Whittlesey
Date Received: 30th September 2013
Expiry Date: 30th December 2013
Applicant: Mr D Eady, A B Texel UK Ltd.
Agent: Mr W Boardman, GCE Fleet Hire

Proposal: Variation of condition 6 (relating to operating hours) of planning permission F/YR11/0574/F (Change of use of site to haulage yard and part change of use of existing warehouse to form office and accommodation for lorry drivers, involving the formation of mezzanine level) to allow 1 – 3 HGVs to enter/leave the site out of permitted hours.
Location: 300 Eastrea Road, Whittlesey.

Site Area: 1.079 hectares.

Reason before Committee: The application has been called in by Councillor Miscandlon as the current planning conditions were put in place to protect the amenities of the local residents.

1. EXECUTIVE SUMMARY/RECOMMENDATION

This is a full application to vary an existing condition relating to hours of use at an existing haulage site at 300 Eastrea Road in Whittlesey. The site is currently occupied by A B Texel UK. The variation of condition relates to condition 6 of F/YR11/0574/F which granted consent for the change of use of the site to a haulage yard and part change of use of existing warehouse to form office and accommodation for lorry drivers.

The key issues to consider are:

- Site History
- Impact on residential amenity

The proposal seeks to extend the existing permitted hours of use, which are 0700 and 2000 Mondays to Friday, 0800 and 1200 on Saturdays and not at all on Sundays and Bank Holidays, to allow an average of 1-3 vehicles to enter and leave the site outside of these conditioned hours. The key issues have been considered along with current Local and National Planning Policies and the proposal is considered to be contrary to Policy. Therefore the application is recommended for refusal.

2. HISTORY

Of relevance to this proposal is:

- 2.1 F/YR11/0574/F Change of use of site to haulage yard and part change of use of existing warehouse to form office and accommodation for lorry drivers involving formation of mezzanine level. Granted 27th July 2012.

2.2	F/YR10/0337/F	Removal of condition 9 of planning permission F/YR08/1025/F relating to the existing building on site to be retained as an ancillary building to the main business/use.	Granted 2010.	20 th July
2.3	F/YR08/1025/F	Erection of 2 industrial buildings for use as parts and stores and partial demolition and extension to existing industrial building, erection of cycle shelter and 1.8 wire mesh fencing.	Granted February 2009.	17 th
2.4	F/YR08/0268/F	Erection of a building for use as vehicle repair and MOT test centre and erection of 2.4m high palisade fence and gates.	Refused 2008.	13 th May

3. PLANNING POLICIES

3.1 National Planning Policy Framework:

Paragraph 2: Planning law requires that application for planning permission must be determined in accordance with the development plan.

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 17: Core Planning Principles – seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

3.2 Draft Fenland Core Strategy:

CS1: A presumption in favour of sustainable development.

CS6: Employment, Tourism, Community Facilities and Retail.

CS12: Rural Areas Development Policy

CS16: Delivering and Protecting High Quality Environments across the District.

3.3 Fenland District Wide Local Plan:

E20 – Environmental (Noise) Pollution.

EMP1 – Establishment and Extension of new businesses within the PIBA.

EMP3 – Rural Based Industries

4. CONSULTATIONS

4.1 *Town Council*

Reject the application on the grounds of section 8 of the Human Rights Act, the owner was fully aware of the requirements of the condition when the business was started, the Noise Pollution Act, the company has a duty of care to their neighbours and this doesn't seem to be happening. This has been a working site for a number of years which up until now has had no issues.

4.2 *CCC Highways*

The level of HGV trips identified (between two and six 2-way trips out of normal

hours) will have no material impact on the site access or the A605, and I therefore have no objections.

4.3 **FDC Environmental Protection** Not received at the time of writing this report.

4.4 **Local Residents:** 3 letters of objection received concerning (in summary):

- The original condition has been ignored from the first day of operation.
- The site is accessed from 5am every morning.
- As lorries pass they are still changing gear.
- The occupiers of the site have ignored reminders of the need to comply with the condition and have instead applied to vary the condition.
- Nuisance is caused by these vehicles in the silent hours.
- It is the character of the noise (i.e. gear changing) which causes the disturbance.
- Cannot sleep with the windows open.
- Object most strongly to the application and have kept a log of the lorry movements to and from the site.
- Have approached a company to triple glaze their house windows as the lorries leaving the site between 5 and 6am are waking up the residents.
- Object as they are clearly not responsible and are already breaching their existing hours of use.
- The submitted planning statement is misleading in its references to the approved supermarket.
- The Acoustic report is from 2010.

5. **SITE DESCRIPTION**

5.1 The site currently comprises a small industrial business and is occupied by A B Texel UK Ltd. It sits to the southern side of the A605 on the approach to Whittlesey. The site is accessed off the A605 and is surrounded to the south, east and west by open land. To the north and north east of the site are a row of residential dwellings.

6. PLANNING ASSESSMENT

6.1 The key considerations for this application are:

- Site History
- Impact on residential amenity

The current use of the site was approved under planning permission F/YR11/0574/F, which was for the change of use of the site to a haulage yard and associated works. Within this planning consent a condition was applied relating to the hours of use which stated:

'The use hereby permitted shall only operate between the hours of 0700 and 2000 Mondays to Fridays; 0800 and 1200 Saturdays; and not at all on Sundays or Bank Holidays, unless obtaining prior written approval from the Local Planning Authority.

Reason: To safeguard the amenities currently enjoyed by the occupants of the dwellings to the North of the site.'

This application seeks to amend the above condition to meet the requirements of the site, which have been identified as follows:

General site operating times of 0700 – 2000 Monday to Fridays' and 0800 – 1200 on Saturdays.

HGV Movements Out of Hours – To be allowed an average of 1-3 vehicles to enter or leave the site outside of the above mentioned permitted operating hours.

Drivers' temporary accommodation – To be allowed to stay/sleep on the site 24/7 with permission to enter or leave by PLG vehicle or by foot to access nearby facilities.

Emergency/Security Access – To be allowed 24/7 access to enter or leave by emergency vehicle or private security PLG vehicle.

The submitted statement also advises that the independent noise report submitted with the 2011 application identified that a HGV entering the site is over 11 decibels lower than a HGV passing along the road at 40 mph and a HGV leaving the site is almost 7 decibels quieter.

The key consideration for this proposed variation of condition is the impact on neighbouring residential amenity. It has been identified that commercial uses on this site date back as far as the 1940s and is well established as an industrial unit, albeit relatively isolated and outside of any larger industrial/business area. Due to its location, in close proximity to existing dwellings and outside of any Primary Industrial Business Area (PIBA) the hours of use have been historically restricted in order to protect residential amenity. During the considerations of the 2011 permission, it was stated that the use would be appropriate for the site, given the existing main road that passed between the site and the nearby dwellings. Despite this however, the hours of use condition was deemed appropriate in order to protect residential amenity and control the noise generated from the site.

The points made regarding the site and nearby dwellings being on the route of the A605, which in itself generates a certain amount of traffic noise, even outside of the main daytime hours have been considered however consideration has to be given to the character of the noise generated, rather than the amount. It is considered that the proximity of the dwellings to the site

would result in the noise being of vehicles starting up, braking and accelerating in close proximity to the dwellings. This can be more apparent during the 'quiet' hours, which would be outside of the existing restricted hours.

The need to support local businesses and the history of the site have been taken into consideration and balanced with the need to protect residential amenity. It is acknowledged that the site has a history of commercial/industrial use and is an established site, however in the past it has been considered appropriate and necessary to condition the hours of use to protect the nearby residents. The dwellings are in close proximity to the site and the access itself and, although it is acknowledged that the site and the dwellings border a main road, it is considered that the nature of the noise, i.e. gear changing and braking, would have an adverse impact on the residents of the nearby dwellings through allowing access to the site at times beyond those originally conditioned. The application states on average 1-3 lorries would access the site outside of the defined hours however there is no way of restricting it to these numbers and although at times there could be less lorries at this time, there also could be significantly more at other times. As such it is considered that the proposal would result in an adverse impact on the residential amenity of the nearby dwellings and as such the proposal is recommended for refusal.

CONCLUSION

- 7.1 The proposal is considered to be contrary to the relevant policies in terms of the impact of the residential amenity of the occupiers of the nearby dwellings to the North. As such the proposal is recommended for refusal for the reason listed below.

8. RECOMMENDATION

Refuse.

1. **The variation of the original condition, which would allow HGVs and other vehicles to access and exit the site outside of the hours specified in the related planning permission, would result in an adverse impact on the amenities of nearby residents, through the noise and disturbance generated by vehicles entering and existing the site. As such, the proposal is contrary to Policy EMP3 of the Fenland District Wide Local Plan 1993 and Policy CS16 of the Fenland Local Plan Core Strategy – Submission Version September 2013.**