

AGENDA ITEM NO.5

Application Number: F/YR14/0979/F

Minor

Parish/Ward: Whittlesey

Applicant: A B Texel UK Ltd.

Agent: Mr J Mills, Contour Planning Services.

Proposal: Variation of condition 6 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 formation of mezzanine level) to enable alteration of hours of operation and to specify the hours and number of HGV movements.

Location: 300, Eastrea Road, Whittlesey.

Reason before Committee: This application is before committee as the views of the Town Council are at variance with the Officer recommendation.

1. EXECUTIVE SUMMARY/RECOMMENDATION

This application seeks to vary condition 6 of planning permission F/YR11/0574/F to allow alterations to the hours of operation for the existing site and to specify the number of HGV movements permitted. The site currently comprises a haulage yard and overnight accommodation off Eastrea Road.

The key issues to consider are the impact of the amended hours of operation upon the amenities of nearby residential properties, the significance of any adverse impacts and whether these are outweighed by economic and social considerations.

The submission includes an environmental noise assessment and a noise management plan for controlling noise on the site. Having assessed the submitted information, the Environmental Health Team consider that there is insufficient noise assessment and mitigation measures and that the proposal has the potential to cause a significant adverse impact for nearby residents. While the proposal would improve the operational efficiency of the business and therefore is supported by policies which seek to maximise opportunities for job growth, it is considered that this is outweighed by the potential adverse impacts for nearby residents. Therefore the application is recommended for refusal.

2. PROPOSAL

2.1 This application seeks to vary condition 6 of planning permission F/YR11/0574/F which states that:

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

2.2 The application proposes a new condition to be worded as follows:

'The vehicle workshop and vehicle washing facilities on the site (including the use of jet washes) shall only operate between the hours of 0700 and 1900 Mondays to Fridays, 0700 and 1300 Saturdays and not at all on Sundays and Bank Holidays unless obtaining prior written approval from the Local Planning Authority. Heavy Goods Vehicle movements into and out of the site shall be unrestricted between 0700 and 2300 Mondays to Saturdays and 0800 and 2000 on Sundays and Bank Holidays. Outside of these unrestricted HGV hours (i.e. 2300 and 0700 Mondays to Saturdays and 2000 and 0800 on Sundays and Bank Holidays) a maximum of 9 HGV movements shall take place within each 24 hour period.'

- 2.3 The applicant is a potato transport haulage firm employing 80 to 100 staff and the business needs to be located close to the crop, in an easily accessible location. The planning statement indicates that amendment of the operational hours is essential to enable the applicant to operate in a highly competitive market and to fulfil the requirements of clients.
- 2.4 This application has been supported by an environmental noise assessment which assesses the impact of the proposed amendments to the condition upon nearby dwellings.
- 2.5 A noise management plan is also included proposing the following measures to avoid adverse impacts on the surrounding area, particularly the neighbours to the north:
- No more than 9 vehicles will enter or leave the site in total each day between 2300 and 0700 hours Monday to Saturday and 2000 to 0800 on Sundays and Bank Holidays.
 - Clear signage and instruction will be provided to ensure that all drivers and staff are aware of the noise management measures;
 - No engines are to be left idling for more than 30 seconds.
 - All vehicles are to be driven as quietly as possible with no unnecessary engine revving.
 - No radios or stereos to be left on in vehicles.
 - Departing vehicles during the restricted times (i.e. between 2300 and 0700 hours Monday to Saturday and 2000 to 0800 on Sundays and Bank Holidays) shall be manoeuvred into departure position beforehand allowing them to be started and driven out without manoeuvring during the restricted hours.
 - Vehicles entering the site during the restricted hours shall be parked in the part of the yard furthest from residential property and no manoeuvring will be allowed at this time.
 - During restricted hours no vehicles will park or manoeuvre in the areas closest to the properties.
 - The use of the jet wash and vehicle workshop will be restricted to between the hours of 0700 and 1900 Monday to Fridays, 0700 and 1300 on Saturdays, and not at all on Sundays or Bank Holidays unless prior agreement by the LPA.
- 2.6 Although the noise management plan includes an acoustic fence, the applicant has confirmed that this does not form part of the current planning application.

3. **SITE DESCRIPTION**

- 3.1 The site is located to the south of Eastrea Road, the A605, approximately mid-way between Eastrea and Whittlesey. The site is occupied by an established business, A B Texel. Access to the site is via an existing access point directly from Eastrea Road and leads to a large yard area with hard standing, a vehicle maintenance workshop and office buildings.
- 3.2 The site is bounded by fencing and automatic access gates and to the south, east and west of the site is open agricultural land. However, planning permission has been granted for a Sainsbury foodstore to the west of the site and for a business park to the west and south of the site. To the north of the site is a row of housing and some farm buildings. The closest residential property is 311 Eastrea Road and is approximately 60 metres to the north of the site. The main town of Whittlesey is located further to the west of the site.

4. **HISTORY**

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|-----|---------------|---|-----------|----------------------------------|
| 4.1 | F/YR13/0733/F | Variation of condition 6 (relating to operating hours) of planning permission F/YR11/0574/F. | Withdrawn | 3 rd December 2013. |
| 4.2 | 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 | 27 th July 2012. |
| 4.3 | 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 ancillary building to the main business/use. | Granted | 20 th July 2010. |
| 4.4 | F/YR08/1025/F | Erection of 2 industrial buildings for use as parts and stores and partial demolition and extension to existing industrial building and erection of cycle shelter and 1.8m wire mesh fencing. | Granted | 17 th February 2009. |
| 4.5 | 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. The refusal reasons included: The proposal is contrary to Planning Policy Statement 1: Delivering Sustainable Development in that the proposed boundary treatment would result in a negative visual impact and would fail to adequately secure the site. | Refused | 13 th May 2008. |
| 4.6 | F/YR02/0944/F | Continued use of land for stationing of portacabin for office use. | Approved | 24 th September 2002. |
| 4.7 | F/99/0376/F | Continued use of land for stationing of portacabin for office use. | Approved | 23 rd August 1999. |

4.8	F/98/0719/F	Erection of extension to existing factory; siting of 1 no. portacabin for staff amenity; cycle shed; car parking and landscaping.	Approved January 1999.	6 th
4.9	F/96/0218/F	Change of use of land for temporary stationing of portacabin for office use.	Approved August 1996.	7 th
4.10	F/0802/87/F	Use of arable land as industrial open storage.	Granted September 1987.	10 th

5. PLANNING POLICIES

5.1 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: Seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Paragraph 19: Significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 123: Planning decisions should seek to avoid or mitigate noise impacts of development

Section 3: Supporting a prosperous rural economy.

5.2 Planning Practice Guidance

Design

Health and Wellbeing

Noise

5.3 Fenland Local Plan 2014

LP1: A Presumption in Favour of Sustainable Development.

LP2: Facilitating Health and Wellbeing of Fenland Residents.

LP6: Employment, Tourism, Community Facilities and Retail.

LP15: Facilitating the Creation of a More Sustainable Transport Network in Fenland.

LP16: Delivering and Protecting High Quality Environments across the District.

6. CONSULTATIONS

6.1 Town Council

Recommend approval however have very strong reservations and recommend prior to approval being given there should be an inspection on site to ensure all conditions have been implemented. Strongly object to any extension of the workshop on noise pollution grounds.

6.2 FDC Environmental Health Team Initial Comments

Subsequent to the receipt of additional noise information and assuming the provision a 3 metre high acoustic fence; recommended conditions relating to:

1. Restrictions on the use of the workshop and jet washing facilities to

between 0700 and 1900 Monday to Fridays, 0700 and 1300 on Saturdays, and not at all on Sundays and Bank Holidays.

2. Restriction to a maximum of 9 HGV movements between 23.00 and 7.00 hours Mondays to Saturdays and between 20.00 and 08.00 hours on Sundays and bank holidays.
3. No audible alarms, idling or refrigeration units to be used on site during restricted hours (between 2300 and 0700).
4. No loading or unloading of goods to take place on site.
5. Installation of a 3m acoustic fence prior to the implementation of the amended hours.
6. Submission of noise management procedures for vehicle workshop and washing facilities and maintenance of the acoustic fence.
7. Adherence to the noise management plan.
8. Notification when the new hours commence.
9. After 12 months, and within 15 months the noise impacts will need to be assessed and re-evaluated.

The acoustic fence requires planning permission and is not part of the current planning application. The Agent advised that the acoustic fence did not form part of the application and that the applicant's environmental noise assessment does not identify the requirement for an acoustic fence. Furthermore, the Agent advised that the applicant would only accept a condition preventing loading or unloading during restricted hours i.e. 23.00 to 07.00 Mondays to Saturdays and 20.00 to 08.00 Sundays and bank holidays.

Revised comments

The Environmental Health Team were requested to comment on the basis that an acoustic fence would not be provided and loading/unloading would be limited only during restricted hours and comments as follows:

The applicant has provided noise impact assessments for vehicles arriving and leaving the site between 23:00 and 7:00am indicating that restricted HGV movements with control measures will not cause a significant adverse effect to nearby residents. The applicant's noise impact assessment for the vehicle workshop for the amended hours concludes that this activity will not cause significant adverse effect to nearby residents.

This information is considered insufficient. The overall impact of noise from all activity, not just individual components of selected times needs to be assessed. There has been no Noise Impact Assessment for the 'unrestricted hours of the site' i.e. activities 7:00am to 23:00pm Monday to Saturday and 8:00am to 20:00pm Sunday. Typical haulage yard noise includes loading and unloading of vehicles, use of refrigerated units or sounding of claxons on site.

It is considered that the noise barrier included in the Noise Management Plan is a fundamental measure to control noise during unrestricted hours of operations. Unrestricted activity for 108 hours a week with no control measures, in addition to 60 hours a week night time operation, has the potential to produce noise at levels and for durations that would produce a significant adverse effect to nearby residents.

Concludes that:

- it is considered that a site used as a haulage yard operating for 24 hours close to residential properties has the potential to cause a significant adverse impact on nearby residents;
- the application has not provided sufficient information to demonstrate the overall impact of noise;
- sufficient mitigation measures to control noise have not been detailed in the application;

Therefore the Environmental Health Team cannot support this application.

6.3 **CCC Highways**

No objection in principle. The site is accessed off the A605 which is a principal route for all traffic. Altering the hours of operation is unlikely to have an impact on the capacity of the highway network.

6.4 **Local Residents:**

1 letter of objection received concerning (in summary):

- The business already operates 24/7 and from 5am every morning.
- The lorries changing gear disturb the residents.
- Huge efforts went into the original planning conditions to protect nearby residents.
- Cannot sleep with the windows open.
- Object most strongly to the proposed relaxation of conditions.

7. **PLANNING ASSESSMENT**

7.1 The key considerations for this application are:

- Background to Condition 6 F/YR11/0574/F and Application Proposals for Variation
- Material Changes in Planning Circumstances
- Noise Impacts and Residential Amenity
- Highway Safety
- Recent planning Permissions in the Vicinity of the Site
- Health and Wellbeing
- Economic Growth

7.2 Background to Condition 6 F/YR11/0574/F and Application Proposals for Variation

The site had an established industrial use for a number of years (see history section). The use of the site was formally changed in 2011 to a haulage yard and use of part of the existing warehouse to form office and accommodation for lorry drivers (planning reference F/YR11/0574/F). The main building was converted as part of this application to provide an office and overnight accommodation for drivers arriving on site for the night and this remains the situation. As part of this application condition 6 stated that:

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

Planning Authority.'

The reason for the condition is:

To safeguard the amenities currently enjoyed by the occupants of the dwellings to the north of the site.

7.3 The current application seeks to vary this condition. As set out in section 2, description of proposal, the restrictions in the current condition are impacting upon the applicant's ability to operate effectively from the site. The planning statement also sets out that the variation of condition is necessary to protect jobs on the site.

7.4 The amendment to condition 6 proposed by the application would:

- Provide an earlier finish time for the vehicle workshop and vehicle wheel washing facilities Mondays to Fridays, 19.00 rather than 20.00 as existing and enable an earlier start Saturdays, 07.00 to 13.00 rather than the current 08.00 to 13.00
- Allow unrestricted heavy goods vehicle movements and associated activities until 23.00 hours Mondays to Saturdays, the current condition allows no use after 20.00 hours Mondays to Saturdays
- Allow unrestricted heavy goods vehicle movements and associated activities 08.00 to 20.00 hours on Sundays and Bank Holidays, the current condition allows no use on Sundays and Bank Holidays
- Outside of unrestricted hours, allow a maximum of 9 heavy goods vehicle movements within each 24 hour period.

Material Changes in Planning Circumstances

7.5 There have been a number of changes since July 2012 when planning permission F/YR11/0574/F was granted. The most significant are

- Adoption of the Fenland Local Plan: May 2014
- Publication of the National Planning Practice Guidance March 2014 which includes updated national practice guidance on assessment of noise
- Planning permission granted for a Sainsbury foodstore to the west of the site (F/YR11/0930/F & F/YR14/0999/F 2014) and a Business Park to the south and west of the site (F/YR11/0895/O September 2014)

The implications of these changes are assessed in relevant sections of the report.

Noise Impacts and Residential Amenity

7.6 The key consideration for this application is the noise impacts that could arise from the variation of this condition as proposed. There are a number of properties located to the north of the site, across the A605, and the reason for the restrictive condition (6) is to protect residential amenity.

As regards noise, the NPPF advises that planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and

quality of life arising from noise from new development, including through the use of conditions;

7.7 Local Plan Policy LP2 relates to health and wellbeing and promotes high levels of residential amenity while Policy LP16 (e) seeks to ensure proposals do not adversely impact on the amenity of neighbouring users by virtue of factors such as noise.

7.8 The National Planning Practice Guidance (NPPG) also provides further advice on assessing noise and this guidance has been taken into account by the Environmental Health Team in assessing the proposal.

7.9 The applicant has provided noise impact assessments for vehicles arriving and leaving the site between 23:00 and 7:00am and for the amended use of the vehicle workshop. The assessments conclude that, subject to appropriate controls, these proposals will not cause significant adverse effects to nearby residents.

7.10 However, the Environmental Health Team consider that the noise assessment is insufficient and that the overall impact of noise from all activity, not just individual components of selected times needs to be assessed. There has been no assessment for the 'unrestricted hours of the site' i.e. activities for Monday to Saturday 7:00am to 23:00pm and 8:00am to 20:00pm Sunday. Typical haulage yard noise is likely arise from activities such as loading and unloading of vehicles, use of refrigerated units and sounding of claxons on site. It is considered that there is potential to produce noise at levels and for durations that would produce a significant adverse effect to nearby residents.

7.11 The Environmental Health view is that this significant adverse effect could be mitigated by the provision of a 3 metre acoustic fence but this does not form part of the current application. The acoustic fence would require planning permission and the visual impact of such a fence along the roadside boundary would require careful consideration (an application for a 2.4 metre high palisade fence was refused in 2008, although this predates the permission for the adjacent Sainsbury store which includes provision for an acoustic fence). Further mitigation could be provided by a condition restricting loading and unloading of vehicles but the Agent has clarified that such a condition would not be acceptable to the applicant.

7.12 Consequently the Environmental Health team are unable to support the proposal as the application has not provided sufficient information or details of mitigation measures to demonstrate effective noise control and there is potential for significant adverse noise effects for nearby residents. Therefore the proposal is considered to conflict with Policies LP2 and LP16 of the Local Plan.

7.13 Recent Planning Permissions in the vicinity of the site

The applicant considers that a precedent has been set by other planning permissions in the vicinity of the site, in particular:
Sainsbury foodstore to the west of the site

- Hours of operation until 23.00 Mondays to Saturdays and 10.00 to 16.00 Sundays and bank holidays
- 24 hour delivery permitted despite delivery yard being closer to existing

Eastrea Road properties (25 metres from 271 to 309 Eastrea Road)

Business Park to the south and west of site:

- No restriction on hours of operation

7.14 These issues have been considered by the Environmental Health Team who advise that the noise assessment for these applications assessed the potential noise implications arising from all proposed activities associated with the applications and included provision for appropriate mitigation measures. Furthermore, the foodstore and business park would be accessed by a roundabout which is some distance from existing dwellings

Health and Well-being

7.15 In accordance with Policy LP2 of the Fenland Local Plan 2014 development proposals should positively contribute to creating a healthy, safe and equitable living environment. The Policy seeks to create opportunities for employment in accessible locations and, as considered above, also seeks to promote high levels of residential amenity. Notwithstanding the employment benefits of the proposal by providing flexibility for the operation of the business, as there is potential for significant adverse noise effects for nearby residents, it is considered that the proposal conflicts with Policy LP2.

Economic Growth

7.16 Local Plan Policy LP6 seeks to maximise opportunities for job growth and the NPPG advises that noise should not be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

7.17 The applicant is a potato transport haulage firm employing 80 to 100 staff. The planning statement indicates that amendment of the operational hours is essential to enable the applicant to operate in a highly competitive market and to fulfil the requirements of clients. The proposed variation of the condition would enable more effective operation of the business, thereby contributing to the economic growth and as such complies with Policy LP6

8. CONCLUSION

8.1 The proposal has been assessed in accordance with the relevant National and Local planning policies.

The proposal would enable the applicant to operate more effectively in a competitive market and therefore is supported by planning policies relating to economic growth. The original condition was imposed to safeguard the amenities of dwellings to the north of the site. It is considered that the application includes insufficient noise assessment and mitigation measures and therefore the proposal to vary the hours of operation has the potential for significant adverse impact upon nearby residents.

8.2 In view of the operational benefits for the applicant arising from the proposed variation of the condition, considerable effort has been made to identify a

solution to the concerns about significant adverse noise effects for nearby residents. However, to date it has not been possible to achieve an acceptable scheme and therefore the application is recommended for refusal.

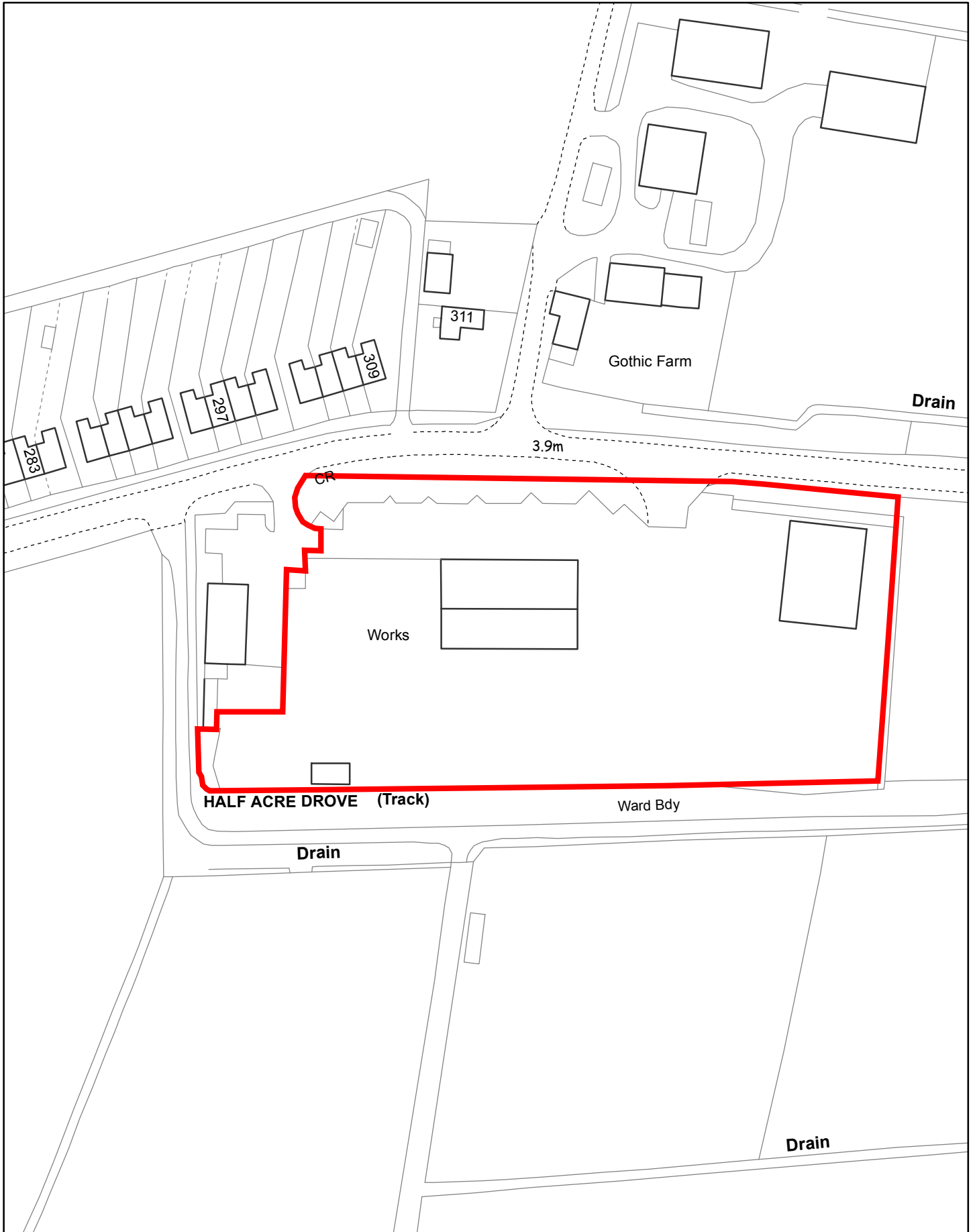
9. **RECOMMENDATION**

Refuse

1. Policy LP2 requires development proposals to positively contribute to a healthy living environment. Policy LP16 (e) requires proposals to not adversely impact on the amenity of neighbouring users.

The proposed variation of condition would enable a significant extension of hours of operation for haulage yard activities. The proposal includes insufficient noise assessment and noise mitigation measures. The noise management plan submitted with the application includes a 3 metre high acoustic fence along the site's northern boundary. This does not form part of the planning application and cannot be taken into account in the assessment of the proposal.

It is considered that the proposed variation of condition could result in significant adverse impacts upon nearby residents. Therefore the proposal is contrary to policies LP2 and LP16 of the Fenland Local Plan 2014.



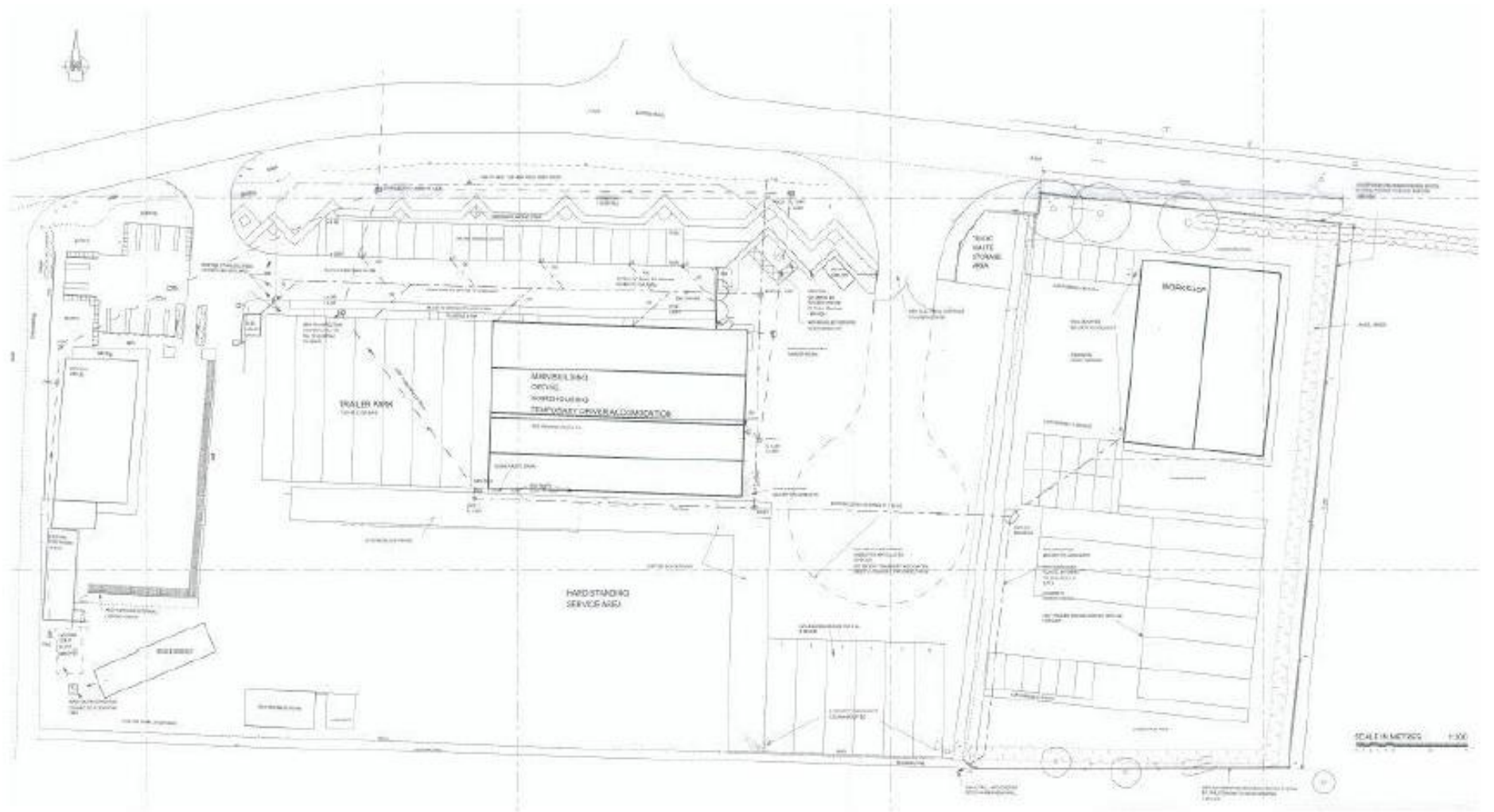
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