

East Area Planning Committee

6th December 2011

Application Number: 11/02492/VAR

Decision Due by: 24th November 2011

Proposal: Variation of condition 10 (Hours of deliveries and fork lift truck activity) of planning permission 11/01550/FUL to enable activity from 07:30hrs to 17:00hrs Monday-Friday and 08:00hrs to 12:00hrs on Saturdays.

Site Address: Former DHL Site Sandy Lane West Oxford. Site plan attached at **Appendix 1**.

Ward: Littlemore Ward

Agent: Seymour Harris Architecture

Applicant: Mr Ronan Mellett

Recommendation:

Committee is recommended to support the proposal for the following reasons:

- 1 The proposed variation of condition 10 of 11/01550/FUL to allow an increase in the hours for deliveries and fork lift truck activity accords with all the relevant policies within the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 as the current restriction will cause operational issues and the agreed 3m high acoustic fencing will provide some significant mitigation against noise.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

subject to the following conditions, which have been imposed for the reasons stated:-

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials
- 4 Details of gates
- 5 Details of acoustic fencing
- 6 Tree Protection Plan (TPP) 1
- 7 Arboricultural Method Statement (AMS) 1
- 8 Details of cycle parking
- 9 Opening hours

- 10 Deliveries and fork lift truck activity
- 11 Construction Travel Plan

**Main Local Plan Policies:
Oxford Local Plan 2001-2016**

- CP1 - Development Proposals
- CP19 - Nuisance
- CP21 - Noise

Other Material Considerations:

- PPS1 Delivering Sustainable Development
- PPG24 Planning and Noise

Relevant Site History:

07/02809/FUL - Redevelopment of the existing employment site to provide 18 x B1(c), B2, B8 industrial units and warehouse units (8 with ancillary trade sales) and one builders merchant (Sui Generis), and a parking area for Stagecoach vehicles. Floodlighting. PER 18th June 2008.

11/01550/FUL - Change of use from class B8 (storage and distribution) to a builders merchant (sui generis) for the display, sale and storage of building, timber and plumbing supplies, plant and tool hire, including outside display and storage and associated external alterations, together with the demolition of adjacent redundant buildings (Amended Plans). PER 21st September 2011.

11/02041/ADV - Installation of 9No non-illuminated advertisements (including 8No fascia signs and 1No free standing signs). PER 26th September 2011.

Representations Received:

None.

Statutory and Internal Consultees:

Littlemore Parish Council: no objection subject to neighbours and planning control
Environment Agency Thames Region: application deemed to either have a low environmental risk or relate to conditions that were not recommended by the EA.

Thames Valley Police: no comments to make.

Thames Water Utilities Ltd: the application does not affect Thames Water and as such they have no comments to make.

Issues:

Variation of condition

**Officers Assessment:
Site Description**

1. The application site is located to the south east of the city centre, to the south of the eastern bypass and is accessed via Ledger Close off Sandy Lane West. Currently on site are three industrial warehouse buildings and associated service yards.

Proposal

2. Variation of condition 10 of planning permission 11/01550/FUL.

Assessment

3. Application 11/01550/FUL was put before East Area Planning Committee on 3rd August 2011 for a change of use from class B8 (storage and distribution) to a builders merchant (sui generis) for the display, sale and storage of building, timber and plumbing supplies, plant and tool hire, including outside display and storage and associated external alterations, together with the demolition of adjacent redundant buildings.
4. East Area Planning Committee was minded to approve the scheme subject to conditions suggested by Officers. One such condition, condition 10, states:
 - Deliveries and fork lift truck activity shall be restricted to between 8.00am and 5.00pm Monday to Friday. There shall be no such activity on Saturday, Sunday or Bank Holidays.

Reason: In the interest of the amenities of nearby occupiers and the area generally in accordance with policy CP1, CP19 and CP21 of the Adopted Oxford local Plan 2001-2016

5. The condition was added at the request of Environmental Development as the application indicated that the premises would be operating between the hours of 0700 hours to 1800 hours. Environmental Development had concerns about noise during delivery times and subsequent forklift truck activity. As a result condition 10 was added to restrict the deliveries and fork lift truck activity to the hours stated in the condition.
6. The applicant sees this condition as restrictive and will cause significant operational issues and will prevent Travis Perkins (the future occupier) from taking deliveries or using fork lift trucks when they are open for trade, namely between 0730 hours and 1700 hours Monday to Friday and 0800 hours and 1200 hours on Saturdays. It is essential for Travis Perkins to be able to receive deliveries and hence use fork lift trucks during their opening times. Fork lift trucks are also required to load building materials onto customer vehicles.
7. The application is therefore seeking to vary the condition to enable the delivery and fork lift truck activity hours to tie in with the permitted opening hours. The suggested new wording for the condition is:

- Deliveries and fork lift truck activity shall be restricted to between 7.30am and 5.00pm Monday to Friday and between 8.00am and 12.00pm on Saturdays. There shall be no such activity on Sundays or Bank Holidays.

Reason: In the interest of the amenities of nearby occupiers and the area generally in accordance with policy CP1, CP19 and CP21 of the Adopted Oxford local Plan 2001-2016

8. In June 2008 planning permission was granted for the redevelopment of the whole site under planning reference 07/02809/FUL. Included in this scheme was a 3m high acoustic fence. Within application reference 11/01550/FUL it was proposed that a 2.4m acoustic fence be erected to mitigate against forklift truck noise. Officers recommended that this be increased to 3m in height, to be consistent with the proposal in 2008 planning permission and a condition was added to that effect. It was considered that this would give further protection against noise disturbance to nearby residents.
9. As the original recommendation for a restriction on the use of the fork lift truck to 8.00am to 5.00pm will cause operational difficulty for the site occupiers and as the applicant have agreed to a 3m high acoustic fencing, which should provide some significant mitigation against noise Officers have no objections to the proposals in the application.

Conclusion:

For the reasons given above and taking into account all other matters raised Officers conclude that the proposed variation of condition 10 of 11/01550/FUL to allow an increase in the hours for deliveries and fork lift truck activity accords with all the relevant policies within the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 and therefore recommends approval as the current restriction will cause operational issues and the agreed 3m high acoustic fencing will provide some significant mitigation against noise.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

Contact Officer: Lisa Green

Extension: 2614

Date: 16th November 2011

This page is intentionally left blank