

Application No: 18/4879N

Location: NORTHERN DAIRIES, GROBY ROAD, CREWE, CW1 4PE

Proposal: Change of use from Milk Dairy Storage and Distribution (B8) to metal fabrication company with associated workshops, offices and yard (B2) (re-submission of 18/1270N)

Applicant: Mr Paul Carruthers, Pegasus Mechanical Installations Limited

Expiry Date: 01-Mar-2019

SUMMARY

This is a retrospective application on a 'brownfield' site within open countryside, for a business involved in the fabrication of steel platforms. Previously the premises were a milk depot.

The site is 1 hectare in area, set on a bend on Groby Road, with extensive hardstanding to the front, has a single storey single skinned former depot 1950's style industrial building with attached (brick built) office. A yard is located to the rear adjoining the residential neighbours

The change of use from milk depot to steel fabrication (Class B2) is the subject of numerous complaints from neighbours concerning noise, and is the subject of on going enforcement investigation.

From an economic sustainability perspective, the scheme will provide employment opportunities in the local area and other economic spending benefits in the economy that would derive from that employment provision.

From an environmental and social perspective the proposal is considered to be acceptable in terms of the impact upon parking, highway safety and traffic generation.

However, the noise assessments submitted clearly demonstrate that the adverse impact upon the amenity of adjacent residents in terms of noise that is not capable of adequate mitigation by enforceable planning conditions. The use of the premises is also a industrial, non conforming use adjacent to existing residential properties.

As such the noise generated by the use of the site for the fabrication of steel platforms or similar use within Class B2 (General Industrial) causes harm to interests of acknowledged importance, namely the amenity of the neighbours.

In these circumstances, the benefits of the development in terms of employment and economic activity do not outweigh the harm to the amenity of neighbouring residents by virtue of the increased noise and disturbance.

RECOMMENDATION:**REFUSE****PROPOSAL**

This application is a 'free go' re-submission of an identical application, previously refused by this Committee in September 2018. Some additional mitigation is suggested and revised operating hours and a new Noise Management Plan is submitted. Hours of operation are being sought are 08.00 hours to 18.00 hours Monday to Saturday. Whether the additional information/mitigation is adequate to mitigate for the adverse noise conditions that the Applicant's Noise Assessment has demonstrated will be considered within the amenity assessment.

The proposal is for a retrospective change of use from the former Northern Diaries milk depot (Class B8), to a steel fabrication premises within Class B2 (general industrial) and B8 (storage and distribution) use. The storage use is ancillary to the primary purpose of the use being the industrial activity of the fabrication of steel platforms/ products for use in the car industry

The building within which the steel fabrication occurs is a single skinned steel framed building with commercial sized openings of both end elevations. Large steel platforms to be used in the automotive industry are welded and fabricated within the building.

The unauthorised change of use commenced in March 2015. Due to the timings of this committee and the extended consultation period over the Christmas period, the last date for comments had not lapsed when this report was written. Any further comments will be the subject of an update report and/or reported verbally.

SITE DESCRIPTION

The application site is 10,000sq.m compound located on Groby Road on the outskirts of Crewe. The site is secured by 2m high security fencing and contains numerous buildings including the depot building, front office, various outbuildings that were originally cold stores associated with the former Dairy depot and now used for storage.

It would appear that the unauthorised HMO use of part of the front office, whereby people who were employed at the site also live on the premises, the subject of application 18/1770N has ceased.

Adjoining the site to the north is a small complex of dwellings/barn conversions in separate residential occupations. A manage also adjoins this boundary, which is operated on a mixed commercial/ancillary residential basis by an adjoining resident of one of the barns. The wider area is open countryside.

RELEVANT HISTORY

18/1270N - Change of Use from Milk Dairy Storage and Distribution (B8) to Metal Fabrication Company with associated workshops, offices and yards (B2). Refused 6 September 2018 for the following reason;

The retention of the use of the premises as a steel fabrication premises (Class B2), by virtue of the unacceptable increased noise levels and disturbance would be detrimental to the amenity of the area and neighbours contrary to Policy EG2 of the Cheshire East Local Plan Strategy and saved policies BE.1 Amenity, NE15 Re-use and Adaptation of a Rural Building for a commercial, Industrial or recreational Use and NE.17 Pollution of the Crewe and Nantwich Replacement Borough Local Plan 2011.

18/1769N - Retrospective erection of a steel framed building to the rear of the main workshop - Refused 6 September 2018

18/1770N - Change of use of part of premises to a 9 bedroom HMO with shared kitchen and bathroom facilities - Refused 6 September 2018

NATIONAL & LOCAL POLICY

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

Cheshire East Local Plan Strategy 2010-2030 July 2017

PG 2 Settlement Hierarchy

PG6 Open Countryside

SD 1 Sustainable Development in Cheshire East

SD 2 Sustainable Development Principles

SE 2 Efficient Use of Land

SE 12 Pollution, Land Contamination and Land Instability

SE 13 Flood Risk and Water Management

PG 1 Overall Development Strategy

PG6 Open Countryside

EG 1 Economic Prosperity

EG 2 Rural Economy

EG 3 Existing and Allocated Employment Sites

Borough of Crewe and Nantwich Adopted Local Plan 2011 (Saved Policies)

BE.1: Amenity

BE.4: Drainage, Utilities and Resources

NE15: Re-use and Adaptation of a Rural Building for a commercial, Industrial or recreational Use

NE.17: Pollution Control

National Policy:

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development.

CONSULTATIONS:

Parish/Town Council: No Comments received at time of writing this report (18/12/2018) Formal Comments will be provided via update report.

Highways: No Comments received at time of writing this report (18/12/2018) however raised no issues on the previous application . Formal Comments will be provided via update report.

Environmental Protection: No Comments received at time of writing this report (18/12/2018). Formal Comments will be provided via update report

Cheshire Brine Board: No Comments received at time of writing this report (18/12/2018) but previously advised no comment to make. Formal Comments will be provided via update report.

REPRESENTATIONS:

Neighbour notification letters were sent to neighbouring properties and a site notice posted.

At the time of report writing this report (18 December 2018) no formal comments from neighbours have been received. The final date for comments is 2 January 2019, after the Agenda is published. The results of the neighbour consultation in respect of this application will be provided in an update report.

Councillor Bratherton objects to the application on the grounds that the proposals have not addressed any of the reasons for the previous refusal

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The site is the former Express Diaries Milk Depot site which is an existing brownfield site, with substantial industrial premises set in a sizeable yard on Groby Road. The site is within Open Countryside in the Crewe and Nantwich Replacement Local Plan. The Building is of substantial construction.

The former use as a milk depot involved milk storage and distribution (considered to be Class B8 use). There is no permitted change of use from Class B8 to Class B2 (General Industrial) without planning permission.

Policy EG2 of the Local Plan Strategy supports developments in rural areas that support the vitality of rural areas and encourage the retention of existing rural based businesses provided that the proposals comply with various criteria including not detracting from the amenity of adjacent residents and other Policies.

The Environmental Health Officer has previously reached the conclusion that the activities on the site as a whole are causing a loss of amenity in noise terms for neighbouring residents.

The differences between the previous and current applications in terms of addressing the amenity concern

Accordingly, given the harm caused to residential amenity, the proposal is contrary to Policy EG2 in principle. Accordingly, the issue is now whether there are matters which would outweigh the harm caused.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

‘The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs’

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation and improved productivity; and by identifying and co-ordinating the provision of infrastructure;

a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent. Any assessment should look at sustainable development as a whole.

Highways

The Head of Strategic Infrastructure (HSI) has assessed the application previously and raised no objection to it. This is due to the fact that the site was previously a milk depot and therefore the change of use would be unlikely to lead to an increase in vehicle movements. This is considered unlikely to change in the case of this re-submitted application.

The HSI previously considered that the visibility at the access is acceptable and does not cause detriment to highway safety. There is adequate parking provision within the site to ensure that on-street parking is not generated from the site.

Noise

The same noise report which formed the basis of the previous refusal has been re-submitted with this application. This formally submitted assessment has been undertaken with the garage doors on the side of the premises in the down position.

The mains results can be seen in the following table -

3.2 BS4142 (From Source Levels – workshop equipment and fork lift truck)

Table 8 – Plant and Activities (dBA) – Daytime – Levels at Houses

BS4142 (1-hour reference period) dBA	Range of levels from Individual Equipment	Simultaneous Level – All Equipment (1 st)	Fork Lift Truck Only (Rear Yard)	Shot Blasting (New Building)	Simultaneous Level – All Equipment (Revisit)
LAeq, T dB Levels	19-34	42	36	22-24	38-39
Tonal Character Correction	2	2	0	2	2
Impulsive Sound Characteristics	3	0	3	3	0
Other Sound Characteristics	0	0	0	0	0
Intermittency Correction	0	0	0	3	0
Rating Level	24-39	44	39	32	41-42
Background Noise Level LA90 dB (Weekday)	40	40	40	40	40
Background Noise Level LA90 dB (Saturday morning)	35	35	35	35	35
Excess over Background [Rating – Background] dB (Weekday)	-16 to -1	+4	-1	-8	+1 to +2
Excess over Background [Rating – Background] dB (Saturday morning)	-11 to +4	+9	+4	-3	+6 to +7
Weekday	"Low Impact"	"Adverse Impact"	"Low Impact"	"Low Impact"	"Adverse Impact"
Saturday Morning	"Low Impact" to "Adverse Impact"	"Adverse Impact"	"Adverse Impact"	"Low Impact"	"Adverse Impact"

Additions for characteristics applied for internal plant but as noted are not likely to be audible at the receptors. General addition made of +3dB for fork lift trucks to cover any impact noise. Addition for tone, impulsive sound and intermittency added for the shot blaster. For other equipment, working continuously for the worst case calculation, an addition has been added for tone.

The Noise Consultant retained by the Applicant suggests mitigation to seek to mitigate for the identified 'adverse impact' which his report identifies. This is suggested as being -

1. Filling gaps/holes in the fabric of the building
2. Plastic internal curtain walling
3. Having the existing openings shut when the premises are operational

Whilst the formal comments of the Environmental Health Officer are awaited, given the Noise Report is identical it is expected that the same issues will be raised by the Environmental Health Officer as were raised in the previous application. Any further comment from the EHO will be provided in an Update Report.

The Environmental Health Officer previously considered the noise reports previously submitted and advised that whilst 1 and 2 may be of limited benefit, 3 is an unrealistic suggestion from the Applicants retained Noise Consultant given the detailed design and age of the premises, the likely operating practises of the Applicant and the nature of the activity. This is together with the fact that ventilation and air flow can only be achieved by opening the roller shutters on both ends of the premises, given the absence of any heat exchange system in the building.

Additionally the roller shutters are the access and egress to the building and would be moving constantly up and down during the work day as plant and equipment/ completed platforms are moved/stored around the site as part of normal working practises of this engineering/steel platform fabrication firm.

The Applicant, for the purposes of this current application, has put forward the following recommendations in a Noise Management Plan;

The following general noise control measures have been identified:

Equipment/process	General noise control measures
Roller doors and pedestrian doors	We will keep doors well-sealed and free from gaps and closed at all times when the site is in operation - except for access
Vertical cladding on façade facing the sensitive receptors	In the interim we will seal any gaps and holes and in the long-term we will consider improving the sound insulation on this façade with absorbent material / secondary cladding
Powered hand tools e.g. grinders	We will use acoustic screens close to these activities to reduce the level of noise propagating from work benches to the façade of the building facing the sensitive receptors
Mobile and fixed plant	We will only use the required power and size of equipment
	We will fit engine exhausts with silencers
	We will operate equipment in a quiet and efficient manner
	We will not leave equipment idling unnecessarily
	We will regularly inspect and maintain equipment
	We will endeavor to sequence work to provide respite periods
	We will schedule particularly noisy activities as late as possible in the morning and during hours when residents who work can be expected to be at work. We will identify any particularly sensitive times for residents during consultation.
	We will use quiet reversing alarms/methods. "White Noise" reversing alarms will be used – "Shh-shhh" instead of "beep-beep" type.
	We will prevent shouting and raised voices in external areas – we will fix signs inside and outside reminding staff to keep noise levels to a minimum and to consider our neighbours.
	We will train our staff in regard to environmental noise and the importance of considering our neighbours.

These are considered to be vague, unrealistic statements which are unenforceable in planning terms and will not protect the amenity of the adjacent residential occupiers given the nature of the industrial fabrication activity undertaken by Pegasus on site.

The Applicant considers that a condition could be imposed to require roller shutter door on the elevation adjacent to the residents to be kept closed. This is not a realistic suggestion and is unenforceable in planning terms. This is therefore contrary to National Planning Guidance.

As the harm is identified by the submitted noise survey is 'adverse' with the roller shutters in the 'down' closed position, it is reasonable to assume that the noise levels audible at the nearest residential facade would be even greater if the roller shutter was in the 'open' position.

It is also considered that the doors within the premises, if in the closed position, are likely to be opened and closed regularly in terms of normal working activity and it is unrealistic to expect all use of machinery within the premises to cease every time a roller shutter needs to be opened for access/ventilation.

Accordingly, the adverse harm in noise terms identified can not be adequately mitigated. In planning, nothing put forward within the recently submitted Noise Management Plan would materially reduce noise levels to mitigate for the harm being caused to the amenity of neighbouring residents.

It also has to be borne in mind that the use of the premises is essentially a non conforming use in close proximity to numerous residential uses and that the previous activities undertaken at the site were within Class B8 (Storage and Distribution) which is an entirely different use to a General Industrial and Manufacturing use within Class B2.

Economic Sustainability

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support a prosperous rural economy.

Paragraph 83 requires that planning decisions should enable;

- a. the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings;
- b. the development and diversification of agricultural and other land based rural businesses;
- c. sustainable rural tourism....

Likewise adopted planning policy EG2 of the Strategy seeks to support the growth of existing rural based enterprises. The applicants occupied the site without the benefit of planning permission; they are not in this context a rurally based enterprise.

It is clear that the Government requires the planning system to do everything it can to support sustainable economic growth and to encourage not impede sustainable growth in rural areas.

Policy EG2 also seeks to ensure that economic activity in such areas is not undertaken at the cost to the amenity of neighbouring residents.

Accordingly this assessment should consider whether the benefits in terms of economic activity in an existing building are sufficient to outweigh the environmental harm in terms of the loss of amenity for neighbours by virtue of the 'adverse' noise environment identified which would not be mitigated by the vague statements of intentions provided within the Noise Management Plan submitted with this application and which are unenforceable in planning terms.

Social Sustainability

Paragraph 92 of the Framework, which concerns the promotion of healthy and safe community, requires that amongst other things planning decisions should ensure an integrated approach to considering the location of housing and economic uses.

The approval for the use of the site would retain existing employment to the benefit of the employees. This would have some limited social benefit. However, the harm to the amenity of neighbours is considered to outweigh that benefit. Overall, the use is not socially sustainable.

Residential Amenity

Objections have been previously received from local residents expressing concerns about the impact on their amenity, by virtue of the noise created by the use and the activity at weekends, early mornings and late evenings. At the time of writing, the formal views of neighbours are awaited, and will be the subject of an Update report.

Previously, neighbours complained of the noisy activities occurred very early in the morning and as late as 8pm at night. Whilst it is acknowledged that the Applicant now seeks to operate from 08.00 hrs to 18.00 hours for 6 days a week, the 'adverse' noise levels identified in the Applicants own submitted Noise Assessment will result in no lesser loss of amenity to those residents if the noisy operations are taking place at any time of the day.

Accordingly, the proposal, by virtue of the noise environment created for the adjoining residential occupiers which has been demonstrated to be already being causing an 'adverse' noise environment when the roller shutters are in the 'down' position, is considered detrimental to the amenity of neighbours. It is further considered that conditions could not be imposed that would safeguard amenity for the neighbours.

Saved Policies BE1, NE15 and NE17 of the Crewe and Nantwich Replacement Local Plan requires developments to be compatible with surrounding land uses, not to result in a loss of amenity for neighbours/sensitive occupiers of adjacent or lead to an increase in noise pollution which can not be mitigated by planning condition. This use is a non compatible industrial land use with heavy steel fabrication occurring within a building which was originally utilised as a storage and distribution depot.

Accordingly, the dis-benefits are considered to outweigh the benefits of the proposal to the economy and no conditions could reasonably be imposed that would adequately mitigate the 'adverse' harm to the amenity of neighbouring residents identified in the Applicant's own noise report.

Conclusion – The Planning Balance

From an economic sustainability perspective, the scheme will provide employment opportunities in the local area and other economic benefits that would derive from that employment provision.

This is a retrospective application on a 'brownfield' site, for a business providing employment. Further to the previous refusal, the Applicant has provided a Noise Management Plan to address the previous reason for refusal. The recommendations of which are vague and imprecise, provide no evidence of reductions in noise levels and are entirely unenforceable in planning terms. It is considered that the use of the premises sought is incompatible with the sensitive nature of the residential uses adjoining and on this basis the proposal comprises harm to interests of acknowledged importance

From an environmental and social perspective the proposal is considered to be unacceptable. The adverse impacts upon the amenity of neighbours by virtue of the increased noise disturbance, which is materially detrimental to the amenity of the neighbours. This is considered to outweigh the benefits to the economy generated by the proposal

The proposal is therefore considered to be an unsustainable form of development which is contrary to local planning policy and national planning guidance which seeks to locate the right development in the right place at the right time.

RECOMMENDATION

REFUSE for the following reason:

- 1. The retention of the use of the premises as a steel fabrication premises (Class B2), by virtue of the unacceptable increased noise levels and disturbance would be detrimental to the amenity of the area and neighbours contrary to Policy EG2 of the Cheshire East Local Plan Strategy and saved policies BE.1 Amenity, NE15 Re-use and Adaptation of a Rural Building for a commercial, Industrial or recreational Use and NE.17 Pollution of the Crewe and Nantwich Replacement Borough Local Plan 2011.**

In order to give proper effect to the Board's/Committee's intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice

