

Application No: 18/1270N

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 yards (B2).

Applicant: Mr Paul Carruthers

Expiry Date: 06-Sep-2018

## **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 sizeable, 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. This application, together with its 2 sister applications concerning different parts of the same site, is submitted as a result of those investigations

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. 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

Accordingly, 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:**

<b>REFUSE</b>
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## **PROPOSAL**

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.

## **SITE DESCRIPTION**

The application site is approximately 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.

Adjoining the site to the north is a small complex of dwellings/barn conversions in separate residential occupations. A manege 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**

There are 2 applications submitted by the same applicant related to this application to be determined (elsewhere on this Agenda);

18/1769N - Retrospective erection of a steel framed building to the rear of the main workshop - to be determined

18/1770N - Change of use of part of premises to a 9 bedroom HMO with shared kitchen and bathroom facilities - to be determined

No other relevant planning history

## **NATIONAL & LOCAL POLICY**

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27<sup>th</sup> 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

**Highways:** No objection.

**Environmental Protection:** Objection on noise grounds. Advises that the Noise surveys undertaken are not the worse case scenario, and as measured have been determined by the noise survey as causing 'adverse impact' on neighbours in noise terms.

**Cheshire Brine Board:** No comment to make

### **REPRESENTATIONS:**

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

At the time of report writing representations have been received from a Planning Consultant representing various neighbouring properties. 3 representations from neighbours have also been received.

The following objections are raised;

- Adverse impact upon residential amenity (stress anxiety, loss of sleep) due to noise disturbance from the industrial processes going on in the unit, particularly early in morning.
- Adverse impact upon the activity of the manege due to sudden noise spooking horses. One client requires hospital treatment as result of sudden noise distressing horse. Less ability to ride horses for pleasure

- The residential use, given that the workers live on site (subject to separate application on this Agenda), results in late night activities/bonfires and noisy social gatherings
- The proposal, together with the other applications submitted for the same use / supporting the same use is contrary to adopted Open Countryside policy.
- Adverse impact upon air quality as a result of the activities undertaken on site by Pegasus.

Additionally, Councillor Brookfield objects on the following grounds

- Noise
- Pollution
- Anti-social behaviour in terms of social activity including lighting of bonfires
- Highways issues
- Over development
- Working 7-days a week - starting early and finishing late
- Affect on horses

One representation of support has been received from a neighbour which states that neighbour has no issue with the proposal

## **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 a 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 was 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 reached the conclusion that the activities on the site as a whole are causing a loss of amenity in noise terms for neighbouring residents.

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 environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

**an economic role** – contributing to building 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 by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

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

## **ENVIRONMENTAL SUSTAINABILITY**

### **Highways**

The Head of Strategic Infrastructure (HSI) has assessed the application and raises 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.

The HSI considers 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**

A noise report was not initially submitted in support of the application. The first assessment which was submitted was not deemed a realistic assessment, e.g. each piece of equipment was surveyed in isolation, not cumulatively. A further assessment was then required which assessed the use in realistic operation (i.e. with equipment operating at the same time). This report 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 <sup>st</sup> )	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'. 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

The Environmental Health Officer has considered the 2 noise reports and advises 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 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.

In addition, it is considered that no planning condition which passes the tests set down in National Planning Guidance could be enforced or would be reasonable which would require the roller shutters to be kept shut permanently when the use is in operation.

As the harm is identified by the submitted 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 activity.

Accordingly, the adverse harm in noise terms identified can not be adequately mitigated. A condition that requires the doors to be permanently closed when machinery is in operation is not enforceable in planning terms and therefore it is not considered that any planning condition to this effect would pass the tests in National Planning Guidance. The Environmental Health Officer recommends the application be refused.

## **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....

The applicants occupied the site without the benefit of planning permission. 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.

This is a business that is providing some employment for workers who are imported for the duration of a limited contract. These workers are living in HMO accommodation provided by the Applicant as part of the employment package (subject to a separate application reported elsewhere on this Agenda). Undoubtedly the economic activity is of benefit to the Applicant, given the fact that he currently employs over seas workers on limited contracts and there will be some economic benefits to the local manufacturing economy/ local shops used by the workers in Crewe for the duration of their stay.

However, who is employed is not controllable in planning terms and this assessment should consider whether the benefits in terms of economic activity in an existing building are sufficient to outweigh the environmental already identified.

## **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.

## **Residential Amenity**

Objections have been 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.

The application form gives no hours of operation and despite being asked the Agent has also failed to disclose the operating hours sought. However the occupier of a nearby residential property has supplied a noise diary stating that the site has been operating before 7 am and after 8pm on occasions, with the noise event being referred to a loud metal banging and the sound of metal being dragged on a hard surface. The neighbours also refer to noise events on weekends which they refer to as being noisy. This level of noise would concur with noise levels as detailed in the noise survey submitted.

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 detrimental to the amenity of 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.

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 harm to interests of acknowledged importance identified in this report.

### **Conclusion – The Planning Balance**

This is a retrospective application on a 'brownfield' site, for a business providing employment. Whilst it is within the open countryside, it is ideally situated for access to the M6 making it locationally sustainable.

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.

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, often early in the morning and late evening outweighs 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 development in the right place.

### **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**

