

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: 07-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.

The site is 1 hectare in area located set on a bend on Groby Road. The site has extensive hardstanding to the front and has a 1950's style single storey; single skinned industrial building with attached (brick built) office. An unauthorised extension is located to the rear of the premises, adjoining open agricultural land. There are 2 yards which are laid to hardstanding, one of which adjoins the residential boundary/ménage associated with one of the houses.

The change of use from milk depot (Class B8 Storage and Distribution) 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 perspective the proposal is considered to be acceptable in terms of the impact upon parking, highway safety and traffic generation, particularly having regard to the likely levels of activity associated with the milk depot use.

The Noise Management Plan (NMP) submitted relies upon the roller shutter door within the premises adjoining the residential elevation being kept shut 'except for access'. The Environmental Health Officer suggests a 12 month temporary permission to enable the recommendations within the Noise Management Plan to be implemented. Whilst, Planning officers have concerns about the enforceability of the actions within the NMP other conditions have also now been agreed which are considered to be enforceable, clear, relevant and precise that would satisfactorily safeguard the neighbouring residents' amenity.

In these circumstances, it is considered that the proposal can be supported.

## **RECOMMENDATION:**

Approve subject to conditions

## BACKGROUND

The update report produced for this application, when previously considered at the 6 February 2019 Committee changed the original recommendation from one of refusal to one of approval subject to the following conditions -

*1. The rating level of the noise emitted from the site shall not exceed the existing background noise level [determined to be 40 dBA L90 [35 dBA L90 on Saturdays] by more than 5 dB between 08:00hrs and 18:00hrs Monday to Saturday. The noise levels shall be determined at the site boundary. The measurements and assessment shall be made according to BS 4142:2014.*

*Reason: To safeguard the amenity of neighbours having specific regard to noise and disturbance*

*2 The premises shall operate, including deliveries to and goods being despatched from the premises, only between the hours 08.00 hrs to 18.00 hours on Monday to Saturday. The premises shall not operate at all on Sundays and Bank Holidays for the use hereby granted.*

*Reason: To safeguard the amenity of neighbours having specific regard to noise*

*3. The use hereby permitted is temporary. It shall discontinue on or before 5 February 2020 unless in the meantime a further application has been submitted to and approved by the Local Planning Authority.*

*Reason: To enable continued control and appraisal of the development proposed having regard to the particular circumstances and nature of the development.*

*4. The recommendations of the Noise Management Plan submitted with regard to the operational practises of the Applicant shall be implemented immediately upon the grant of permission. The recommendations requiring the filing of holes, the installation of cladding to the premises and use of acoustic screens shall be fully implemented with 2 months of the date of this permission, in accordance with a scheme of improvements to be submitted and approved within 14 days of the date of this permission*

*Reason: To safeguard the amenity of neighbours having specific regard to noise and to define the permission*

Members will recall that the Noise Consultant acting for the Applicant stated that condition no 1 above was unenforceable because the noise level stipulated was unachievable at the southern boundary of the site. The southern boundary is the boundary adjoining the open countryside on the other side of the premises away from the boundary with the residents.

## PREVIOUS DEFERRAL

The application was deferred on the Southern Planning Committee on 6 February 2019 for the following reasons:

- To require the attendance of the EHO to advise committee
- Further consideration/justification as to whether or not the suggested noise condition could be enforced and who would monitor noise levels
- Condition further restricting working hours (consider no working on Sundays and reduced hours on Saturdays)
- Consideration of impact upon adjoining livery

## **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 via a Noise Management Plan which has been submitted and conditions have been suggested. Hours of operation are being sought by the Applicant are 08.00 hours to 18.00 hours Monday to Saturday.

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 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 a 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, the subject of application 18/1770N has ceased since the determination of that application. The rear extension, the subject of refusal under 18/1769N, remains in situ, but is not the subject of this application.

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 Oak Tree Barn.

## **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

### **Land Adjoining**

15/5559N - New Stable Block Comprising 8 Stables (2 for Commercial Livery), a Storage Room, Tack Room and Ménage (40m x 20m) and Rebuild Existing Garage/Workshop for Use as Commercial Livery Yard and Own Horses - granted 2/02/2016- Implemented

### **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.

Of particular relevance are paragraphs:

11 Presumption in favour of sustainable development

80-82 Delivering a strong and competitive economy

83. Supporting a prosperous rural economy

170 Enhancing the natural and local environment

180 New Development appropriate for its location taking into account likely effects

182 Effective integration of new development

## **CONSULTATIONS:**

**Crewe Town Council:** Objection on grounds of the continuing noise complaints nuisance and do not consider application to be materially different from the previous application.

**Highways:** No objections.

**Environmental Protection:** No objection. A 12 months temporary permission is suggested to assess whether the mitigations within the Noise Management report are sufficient to address the adverse noise levels identified in the Noise report.

**Cheshire Brine Board:** No objection.

## **REPRESENTATIONS:**

Councillor Bratherton comments that the proposals have not addressed any of the reasons for the previous refusal

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

Objections received from 4 neighbours and a commercial planning agent representing one neighbour/owner of the adjacent ménage on the following grounds -

- Previous objections maintained about noise and disturbance during unsociable hours
- The disturbances caused by the industrial levels of activity carried out by the company called Pegasus continue as before and during unsociable hours as on previous occasions.
- Revised hours of operation conflict with the hours of the commercial livery. This will place unreasonable restrictions upon a business established prior to Pegasus. This is contrary to Para 182 of the NPPF where existing businesses should not have unreasonable restriction imposed upon them as a result new development
- This resubmission application claims that there is minimal noise is not true. Much is made of the machinery noise but it is also the very loud banging noise that affects us. To claim that the workers will be asked to put down equipment and tools gently is obviously unworkable and to ask that the neighbours call the manager when it's noisy is unacceptable. The building is not insulated for sound and the noise of workers banging to manipulate steel and huge steel beams being dropped on concrete is very loud and highly obtrusive. It is easy for Pegasus to say and promise they will be quiet to try and get planning permission, but the history of them working is that they are noisy and the business by its very nature makes a lot of noise.

- The previous business was milk warehousing and distribution. The milk was distributed by electric milk floats and therefore was quiet. The site was a dairy and therefore in keeping with the countryside and farming. There was never any reason to complain to the Environmental Health Department at the council about the dairy.
- Amongst other business, Pegasus makes very large platforms for the automotive industry. This means working with huge metal girders and metal fabrication is heavy industry in terms of the investment in the business and machinery and the large structures produced for the car industry. This type of business should be operated on business parks and away from residential properties. This is a rural area not suited to a large loud steel fabrication business
- Adverse impact upon residential amenity (stress anxiety, loss of sleep) due to noise disturbance from the industrial processes going on in the unit.
- The level of industry at the site to be excessive for this rural location. The impact on the residential properties next door is widespread. The level of noise generated by heavy machinery is disruptive. Residents have suffered sleep deprivation and regular disturbance from the operations at Pegasus. The workers on site have not been considerate or co operative in regards to the noise. In fact they have been the opposite; the threatening behaviour displayed towards my wife had been reported to authorities several times.
- In addition to this the level of traffic is unsafe and has not been assessed or investigated, no highways reports are included in the submitted plans. It is not considered that the parking is adequate for workers or deliveries often resulting in cars being blocked in by each other, then car horns are beeped and engines are revved like boy racers.
- The character and design of the site does not reflect its countryside setting. No design statements are submitted. The addition of more buildings and large metal fences is an intrusion on the landscape. The buildings are overcrowded and squashed onto a very small footprint showing that the operations have outgrown the plot. Pegasus already have other premises in Crewe and perhaps the operations on Groby Road would be better suited to an industrial park or similar location.
- The outlook by neighbouring properties is impacted by the developments and storage on site. Residents have also lost privacy by having such a business operating in front of our home. The level of deliveries and visitors has tarnished the once quiet location.
- The application does not give detail about the level and nature of work currently being undertaken by Pegasus. The activity on site is constant. The relentless noise is draining, we are forced to keep windows closed in the summer and can still hear the banging and clanging.
- The operations involve the cutting and spraying of steel, no mention of soundproofing or prevention of air pollution are made? Concerns over where the spray paint is being drained to?
- The Noise Consultant retained by the neighbours consider that the noise data submitted by the applicant is not reliable, is erroneous, only measured for 1 hour at a time (0.816-09.16) when traffic noise was high and makes no allowance for the tonality/impulsivity and random nature of the noise at the site.

## **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 was as a milk depot involved in 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 (Rural Economy) of the CELPS states that outside Key and Local Service Centres developments that (amongst other things) provide opportunities for local rural employment development that supports the vitality of rural settlements will be supported where;

- i. Meets sustainable development objectives as set out in policies MP1,SD1 and SD2 of the Local Plan Strategy
- ii. Supports the rural economy and could not reasonably be expected to locate within a designated centre by reason of the products sold. The majority of goods sold should be produced on site....
- iii Would not undermine the delivery of strategic employment allocations
- iv Is supported by adequate infrastructure
- v. Is consistent in scale with its location and does not adversely effect nearby buildings and the surrounding area or detract from residential amenity.
- vi Is well sited and designed in order to conserve and where possible enhance the character and quality of the landscape
- vii Does not conflict with Policies PG3, PG4, PG5, PG6, SE3, SE4, SE5, SE6 and SE7 of the Local Plan Strategy

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

Accordingly, in terms of this application, the issue is whether the proposed mitigation put forward in the Noise Mitigation Plan and conditions would safeguard the amenity of the residential neighbours/adjoining uses to address the previous reason for refusal in planning terms. This is addressed in the amenity section of this report.

## **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.

## **Economic Sustainability**

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.

There are 8 employees presently at the premises although there were previously more stated to be employed when the previous application was under consideration. The building is 1,100 sq. metre in floorspace within the site of 1 hectare so has capacity to employ more staff as business demands. The use contributes to the economic objective of sustainability by virtue of the employment generated within the site and the supply chain as a result of the metal products fabricated into steel platforms.

## **ENVIRONMENTAL SUSTAINABILITY**

### **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.



On this basis, it is considered that the proposal does not create any highways harm and the parking of HGV's and other vehicles associated with the use can be adequately stored within the site itself.

## Noise

The main issue in this case is noise and disturbance for adjoining residents.

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 roller shutter doors on the side of the premises on the residential elevation of the premises in the closed 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 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

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.

As a result of concerns about the vagueness in planning terms of these measures a further Noise Statement was requested and submitted which puts forward the noise reduction levels the Applicant's retained Noise Consultant considers can be achieved if the actions within the NMP are implemented.

This additional report puts forward the following reductions which are based on the authors experience rather than any on site measurement of noise;

	Simultaneous Level – All Equipment	Simultaneous Level – All Equipment ex. Fork Lift
LAeq,T Levels	39	36
Tonal Character	2	2
Impulsive Character	0	0
Other Character	0	0
Intermittency	0	0
Rating Level	41	38
Background Weekday	40	40
Background Sat	35	35
Excess over Background - Weekday	+1	-2
Excess over Background - Saturday	+6	+3
<b>BS4142:2014 Impact Assessment – Depending on Context</b>		
Weekday	Less than “Adverse”	“Low Impact”
Saturday	“Adverse” but not “Significant Adverse”	Less than “Adverse”

**Table 1: Reworked version of SBM Table 8 with Noise Control**

The Noise Consultant employed to undertake the review of the NMP considers that the roller shutter door to the elevation facing the residential properties can be shut and that with other items such as filling gaps/no longer using very noisy machinery/ noise screens can reduce the noise levels as detailed in the table above

No assessment has been provided of the noise generated by the loading of 44 tonnes steel platforms which according to information submitted is the maximum size of platforms fabricated. This is unlikely to be placed on the trailer via fork lift truck without noise. In this regard neighbours have complained about the sudden, unexpected sharp noise of banging metal and the tonal nature of the noise nuisance they have advised is emanating from the site.

However, the Applicant in response to this criticism in the previous report concerning this has now stated that he is willing to not utilise the northern yard for loading or unloading. An enforceable condition could be imposed in this regard.

The NMP submitted refers to the Site Manager as being responsible for monitoring noise levels, and gives an undertaking to engage with the neighbours with regard to complaints. The

following extract from the NMP details the Applicants' proposals for monitoring of noise levels and complaints;

## **9 Complaints**

The following procedure shall be followed for all noise complaints:

1. All noise complaints should be immediately directed to the Site Manager.
2. As soon as the complaint is received it will be recorded.
3. An initial response will be made and recorded. Depending on the nature of the complaint the initial response could be to immediately cease the activity pending investigation. However, in some cases it might not be practicable to provide immediate relief. The complainant will be informed of actions taken. Contact details for the council will be retained on site in case consultation with the Environmental Health Department is necessary.
4. Where the initial response does not address the complaint, further investigation, corrective action and follow-up monitoring shall be undertaken as appropriate. The complainant and council will be informed of actions taken.
5. All actions will be recorded, and the complaint will then be closed.

## **10 Documentation**

### **10.1 File**

A noise management file will be established. This document will be updated to identify who manages it and where the file is retained. The construction noise management file will contain:

- o Site survey summary sheet
- o Subjective survey reports
- o Specialist contact details
- o This *Noise Management Plan* and any revisions.
- o Noise survey results by specialists as applicable
- o Complaints

These measures are considered acceptable by the EHO. The onus is clearly on the applicant to comply with their stated NMP actions and procedures and also planning conditions imposed should permission be granted.

The enforcement of any planning condition is a matter for the Local Planning Authority, which in terms of measuring noise on the land adjacent would rely upon the technical noise monitoring to be undertaken by the EHO. The EHO would however need to be granted access to private property by the neighbours to undertake such monitoring.

Planning Officers are of the view that an absolute noise level condition at the boundary with the manège is clear, precise, measurable and therefore enforceable in planning terms. Such a condition therefore passed the tests in National Planning Guidance (NPG). However, this does rely upon the Applicant to comply with the conditions.

Clearly there is a dispute between Noise Consultants appointed to represent both parties with Noise Consultant appointed by the neighbours disputing the noise level reductions achievable

by implementing the actions within the NMP. Members will recall the Noise Consultant appointed by the applicant disputing the conclusions made by the neighbours consultant at the last Committee.

The Council's EHO is, independent of these interpretations, and is of the view that on the basis of the satisfactory implementation of the measures in the Noise Management Plan (NMP), the noise level stipulated at the joint boundary can be achieved. However she also advises that a 12 month temporary permission is acceptable, to ensure adequate implementation of those measures.

She has further commented that the absolute noise level suggested at the residential boundary suggested by Planning officers is achievable and measurable and advises that the conditions now suggested are acceptable.

The boundary is clearly defined and does not inhibit the Applicant in utilising the other larger yard on the other side of the building for their loading and unloading activities.

The Applicant has, having noted the concern about the adjoining yard in the previous report, has now also offered a condition to not use the yard to the northern side of the premises adjacent to the residents for any loading or unloading.

The NPPF requires conditions to be precise and enforceable. A condition could not be phrased to protect the amenity of neighbours when the door is opened and it would be impossible to define what constitutes access and how long that should take (ie notwithstanding the information submitted in terms of the NMP and the intention to fit a lock to the door, this can not be enforced). However, in the light of the fact that the Applicant now has advised they are willing to not use the northern yard for any loading/unloading, there appears no reason why the roller shutter door on the northern elevation is needed to be open at all.

A condition requiring the roller door to be permanently fixed shut is clear and precise, and together with measures in the NMP about insulating the building will reduce noise escaping from the confines of the building in the first instance. This is considered a further safeguard which are considered to reduce the noise levels, particularly with regard to the sudden bangs of metal.

## **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.

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.

Previously, neighbours complained of the noisy activities occurred very early in the morning and as late as 8pm at night. The Applicant now seeks to operate from 08.00 hrs to 18.00 hours for 6 days a week. This only excludes Sunday. The further assessment of the NMP undertaken

refers to adverse effects on a Saturday, a day in the week when residents could reasonably expect to use their garden/ménage.

The Environmental Health Officer has not requested specific hours of operation in this case. However, following Committees' previous debate, working hours of 09:00 to 14:00 hrs on Saturdays have been put to the Applicant as being reasonable hours which would demonstrate courtesy to the neighbours. If Committee are minded to accept this recommendation, a revised hours of operation condition is therefore suggested.

## **Conclusion – The Planning Balance**

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 and further clarification of the use to address the previous reason for refusal. Whilst Planning Officers were initially concerned that the measures were not enforceable, the conditions concerning noise levels at the affected boundary are considered achievable, reasonable and necessary to safeguard the amenity of residents, including the residential enjoyment of the ménage.

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. Likewise the NPPF (Para 182), as material consideration, advises that existing businesses should not have unreasonable restrictions placed upon them as a result of developments undertaken after they were established

A non compatible land use is non conforming use when it causes harm to interests of acknowledged importance, in this case, by causing a loss of amenity for the neighbours.

Subject to the very stringent planning conditions as detailed in this report, enforceable planning conditions can be imposed with the specific intention of safeguarding the amenity of the neighbours.

On this basis, whilst this is finely balanced and the onus will be placed on the Applicant to comply with the suggested conditions, it is recommended that a temporary permission is granted.

## **RECOMMENDATION**

### **APPROVE subject to following conditions**

- 1. The rating level of the noise emitted from the site shall not exceed the existing background noise level [determined to be 40 dBA L90 [35 dBA L90 on Saturdays] by more than 5 dB between 08:00hrs and 18:00hrs Monday to Saturday. The noise levels shall be determined at the site boundary where it adjoins the manege at Oak Tree Farm as identified on the plan attached to this decision notice. The measurements and assessment shall be made according to BS 4142:2014.**

**Reason: To safeguard the amenity of neighbours having specific regard to noise and disturbance.**

- 2. The premises shall operate, including deliveries to and goods being despatched from the premises, only between the hours 08.00 hrs to 18.00 hours on Monday to Fridays and 09.00 hrs to 14.00 hrs on Saturdays. The premises shall not operate at all on Sundays and Bank Holidays for the use hereby granted.**

**Reason: To safeguard the amenity of neighbours having specific regard to noise**

- 3. The use hereby permitted is temporary. It shall discontinue on or before 5 March 2020 unless in the meantime a further application has been submitted to and approved by the Local Planning Authority. Any future application shall be supported by a noise survey at the northern boundary shared with the adjacent residential premises, the durations, location and timings of which shall be agreed with the Council Environmental Health Officer and the Local Planning Authority prior to submission**

**Reason: To enable continued control and appraisal of the development proposed having regard to the particular circumstances and nature of the development.**

- 4. The recommendations of the Noise Management Plan submitted with regard to the operational practises of the Applicant shall be implemented immediately upon the grant of permission. The recommendations requiring the filing of holes, the installation of cladding to the premises and use of acoustic screens shall be fully implemented with 2 months of the date of this permission, in accordance with a scheme of improvements which shall be submitted and approved within 14 days of the date of this permission. The scheme of improvements to be submitted for the Local Planning Authority approval shall also contain measures to permanently fix shut the roller shut door on the northern face of the premises and shall be fully implemented with 2 months of the date of this permission.**

**Reason: To safeguard the amenity of neighbours having specific regard to noise and to define the permission.**

- 5. There shall be no loading or unloading of any goods or equipment within the yard adjoining the residential northern boundary of the site.**

**Reason: To safeguard the amenity of neighbours having specific regard to noise and to define the permission.**

**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**

