

Parish: Shipton
Ward: Easingwold
8

Committee date: 20 July 2017
Officer dealing: Mrs Helen Conti
Target date: 24 July 2017

17/00073/MRC

Removal of condition 15 and variation of condition 14 (to read cabins shall only be stacked in the 7 shaded areas "annotated as hatched areas" on submitted drawing PKA/2/030 and no cabins shall be stacked to a height of more than 6m unless otherwise agreed in writing by the Local Planning Authority) to previously approved application 14/02558/MRC - Application to vary conditions 18, 19, 20 and 21 of approved scheme 14/00141/FUL

**At S Wernick & Sons (Holdings) Ltd., Station Lane, Shipton by Beningbrough
For S Wernick and Sons (Holdings)**

This application was considered at the 30 March 2017 meeting of the Planning Committee. The Committee resolved to grant permission subject to the inclusion of an additional condition to control audible warning safety system of cranes. This report details at 1.8 – 1.11 the additional condition and information regarding the use of cranes on the site.

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site is located to the west of Shipton by Beningbrough, north of Station Lane. The East Coast Main Line is located to the west of the site and residential properties of Dawnay Garth are located to the east. There are commercial properties to the west and south.
- 1.2 The eastern boundary of the site, adjacent to a public footpath, is marked by a chain link fence with a landscaping area containing a mix of trees, hedge and shrubs behind it and a 2.4m high close boarded fence further into the site. Next to the footpath runs a small beck and beyond is a band of hedge/mature trees marking the boundary of the public open space behind the residential properties of Dawnay Garth.
- 1.3 The applicant wishes to remove condition 15, which restricts the height of cabins to 6m, and to vary condition 14 of planning approval 14/02558/MRC to allow storage on all seven areas of the site shown on drawing PKA/2/030A to a height of no more than 6m. The proposed variation of condition 14 would therefore replicate the 6m height limit of stacking currently exercised through condition 15.
- 1.4 The reason for both conditions was "In the interests of neighbour and visual amenity in accordance with Local Development Framework Policy CP1 and DP1".
- 1.5 The applicant wishes to double stack cabins to allow the company's continued expansion, maintaining and creating new jobs. The applicant originally applied to have all storage areas within the site available for double stacking during the consideration of the first application, 14/00141/FUL, however condition 16 was included as part of the decision following discussion at Planning Committee.
- 1.6 Variation of condition 14 would allow double stacking of cabins in the eastern and southern most hatched areas as set out in drawing PKA/2/030A, in addition to five areas on the same drawing that the condition did not restrict. It would therefore allow double-stacked cabins a minimum of 49m closer to the eastern boundary and Dawnay Garth beyond. The minimum distance between double stacking and a

dwelling would be 62m. It is proposed to delete condition 15, which restricts the stacking height to 6m, and include this provision within the amended wording of condition 14. The applicant has submitted photographs showing two storey cabins in the eastern hatched area. At the time of the photograph the stacking of these cabins was in breach of condition 15 but they have since been removed.

- 1.7 The originally submitted plan PKA/2/030 did not show the stacking areas and vehicle access around the site as they have been laid out. The applicant submitted a corrected plan (PKA/2/030A) on 20 March 2017. The stacking areas are no closer to the residential area to the east than shown on drawing PK/2/030.
- 1.8 The scheme as described was presented to Planning Committee on 30 March 2017. The Committee resolved that permission should be granted subject to an additional condition to control audible warning safety system on cranes. Discussions have taken place with the applicant's agent regarding the use of cranes and the safety implications of audible warning safety system.
- 1.9 The applicants' agent proposes a condition that:

"Any cranes which are operating from the site in association with the ongoing operational requirements of the business shall, when in situ, with only the crane arm operating, have no audible warning system except in hazard warning situations such as the overloading of the crane structure".
- 1.10 The reason for this proposed alternative is that applicant does not have its own cranes on site; the cranes used to move cabins around on site are hired in and therefore the applicant is not in a position to disable any audible warning systems they may have. However, and based on their experience of using cranes on the site to date, the applicant contends that there is no need to disable any warning systems.
- 1.11 The applicant has confirmed between 1 January and 5 July 2017 there were 11 days of craning at the depot (five days during January – May and six days during June). When the crane is on the site it more often than not manoeuvres around the site in a forward gear as the company does not encourage vehicles to reverse once on site. Once in place the crane moves its arm around to move the cabins without needing to move the base of the crane. The existing planning condition regarding operating hours 07:30 – 18:00 Monday to Friday applies to the use of the crane.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 14/00141/FUL - Change of use of land and buildings from B8 storage to a mixed use of B8 storage and B2 general industrial use, demolition of warehouse units and two storey office building, and siting of single storey modular office with associated car parking, roadways and hard standings; Granted 11 November 2014.
- 2.2 14/02558/MRC - Application to vary conditions 18 (working hours), 19 (restricted vehicle movement times), 20 (no outside working) and 21 (restriction on working in cabins near the eastern boundary) of approved scheme 14/00141/FUL; Granted 11 November 2016.
- 2.3 Enforcement investigation 16/00061/CAT3 – Double stacked units on area nearest eastern boundary; Investigation closed 27 May 2016.
- 2.4 Enforcement investigation 17/00109/CAT3 – Double stacked units in eastern area of the site; pending consideration.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP12 - Priorities for employment development
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Development Policies DP1 - Protecting amenity
Development Policies DP3 - Site accessibility
Development Policies DP4 - Access for all
Development Policies DP16 - Specific measures to assist the economy and employment
Development Policies DP17 - Retention of employment sites
Development Policies DP32 - General design

4.0 CONSULTATIONS

4.1 Parish Council – Objects to the application on the grounds summarised as follows:

Safety and litter – debris and litter have blown been off the site in high winds which could cause safety issues for public footpath along the north boundary, the residential area or the East Coast Main Line. Concerns that if units were triple-stacked, the existing fence would not stop debris blowing out of the site. Should permission be granted, a condition should be imposed to require any litter blown off site to be collected.

Noise – an increase in height of stacked units will result in increased use of cranes instead of fork lift trucks with low noise alarms/sirens, causing greater noise disturbance.

Visual impact – double stacked units are visible from Tollerton Road, the A19 and the railway line. While the site is industrial it is close to residential properties and surrounded by green belt. Double stacked units are an eyesore, to allow triple height would have seriously detrimental visual impact to whole community.

4.2 Highway Authority – No objection.

4.3 Environmental Health Officer - No objection: the application is principally concerned with visual amenity and that the stacking would not add perceptibly to existing noise levels.

4.4 Public comments – 13 objections have been received, summarised as follows:

- Impact of double stacked cabins on residential amenity of Dawnay Garth – the existing landscaping is not sufficient;
- Double stacking on the eastern side will be intrusive;
- The cabins are an eyesore because they are in poor condition;
- Concerns about the appearance of 9m high stacked cabins;
- Litter and debris blown across neighbouring areas during strong winds;
- The applicant has applied several times since approval to change approved conditions;
- Increase in noise from increased movements within the site;
- The existing business has an effect on the character of neighbourhood; and
- Increase in traffic and heavy haulage vehicles through the village.

5.0 OBSERVATIONS

- 5.1 The primary planning consideration is the impact of the proposed variation (condition 14) and removal (condition 15) on the interests of (i) visual amenity; and (ii) residential amenity. It is also necessary to consider whether the variation and removal would have any material impact on the additional issues of (iii) debris and litter; and (iv) traffic generation raised by the Parish Council and residents.
- 5.2 As indicated in paragraph 1.5, the proposed variation of condition 14 would replicate the 6m stacking height restriction currently exercised by condition 15 at the same time as increasing the areas within the site where stacking could occur, so the following assessment focuses on the proposed variation of condition 14.
- 5.3 The key determining issue is whether the proposed variation of condition 14 would be more, less or equally effective in securing the public protection existing conditions 14 and 15 were designed to achieve having regard to the stated reasons for them. As such the proposed variation (and associated removal) should only be refused if it is concluded that the new condition 14 would be less effective and would give rise to unacceptable harm.

Visual amenity

- 5.4 The applicant wishes to double stack cabins on all seven hatched areas as shown on drawing PKA/2/030A. Concerns have been raised regarding the visual impact of the cabins on the neighbouring residential properties on Dawnay Garth. The rear/side elevation of the closest properties on Dawnay Garth would be approximately 62m away from the closet part of the proposed two-storey storage area. The applicant installed a 2.4m high close boarded fence, which shields views of the single-storey cabins, when they occupied the site. There is a mix of vegetation along the site boundary and along an area of public open space immediately adjacent to Dawnay Garth which also helps shield views into the site.
- 5.5 Two-storey cabins would be visible from the rear of three properties on Dawnay Garth, especially from upper floor rooms. The minimum distance between double-stacked units and a dwelling (7 Dawnay Garth) would be approximately 62m. Due to the distance between those properties and the cabins, and the opportunity to secure additional landscaping on the eastern boundary, it is considered the impact of the cabins on the amenity of the occupiers would be limited and would not warrant refusal of the application. A landscaping condition can require tree planting to soften the visual impact of the site.
- 5.6 The Parish Council has pointed out that double stacked units are visible from Tollerton Road, the A19 and the railway line. However, the proposal in this application would extend double stacking eastwards and would not materially alter views from those directions, which are as approved under 14/00141/FUL and 14/02558/MRC.
- 5.7 Some public comments suggest that cabins could be stacked up to 9m in height. However, that is not proposed; the requested variation to condition 14 would maintain the present 6m stacking height restriction, currently exercised through condition 15.

Residential amenity

- 5.8 Some residents have suggested that double stacking units nearer to residential properties will lead to greater noise disturbance through the use of cranes on the site. However, Environmental Health officers have reviewed the application and have not raised any objection to the proposed variation, which would allow double-stacking approximately 53m closer to Dawnay Garth than currently permitted (62m compared

with 115m at present). It should be borne in mind that the site is still subject to the restrictions on opening hours imposed by conditions 9 and 10 of 14/02558/MRC with movement of cabins limited to 07:30 – 18:00 Monday to Friday. It is considered that the closer position of double stacking areas would not have a material impact on noise generated within the site and that the current restrictions on working hours are sufficient to protect local residents.

- 5.9 Following discussion of the application at the 30 March meeting the applicant has confirmed that when cranes are on site, they normally have an audible warning on reversing. During craning operations there will be no audible warning system except to warn of overloading of the crane.
- 5.10 The use of cranes on the site is limited due to the volume of work and the cost of hiring them. The applicant confirmed the use of a crane for 11 days over the six month period of January to June 2017 and there is no evidence of complaints arising from the use of cranes with audible warning systems during this period. Considering the difficulty of specifying something that suppliers may not be able to achieve and the absence of any evidence that use of cranes with audible warning systems to date has caused an amenity problem for nearby residents, the additional condition does not appear to be needed in order to protect the amenity of local residents. However, an alternative form of condition to provide protection once cranes are in situ is recommended.

Debris and litter

- 5.11 Concerns have been raised by the Parish Council and residents regarding the potential for an increase in litter on the site due to parts of cabins requiring repair blowing around the site. However, the only evidence of this is one photograph submitted by a resident showing a small amount of litter at the base of the fence on the northern boundary. It is not possible to say whether this had anything to do with double stacking of cabins and therefore it is questionable whether the proposed additional double stacking would make any difference. No evidence of debris being blown beyond the site boundary has been presented.

Traffic generation

- 5.12 It is reasonable to assume that an increase in double stacking of cabins would also increase the numbers of lorries entering and leaving the site. Concerns were raised about vehicles, particularly HGVs, using Station Lane when application 14/00141/FUL was under consideration and the Highway Authority advised at the time that "Station Lane is subject to a 7.5 ton weight restriction which commences to the east of the site. Whilst there is an exemption for access purposes, this would not apply to any HGV associated with the site. Any HGV driver travelling to or from the site via the restricted section of Station Lane would be committing an offence and may be prosecuted".
- 5.13 In view of this, it is not considered that any increase in lorries would affect the school and residential properties on Station Lane. The Highway Authority has not raised any concerns in respect of the current application.

Conclusion

- 5.14 The resolution to grant planning permission subject to a condition that requires control of audible warning safety system on cranes cannot reasonably preclude reversing warning; however, an additional condition that controls the audible warning systems during crane operations, such as prior to and during lifting, provides a further safeguard to the amenity of neighbours. The absence of identifiable harm leads to a conclusion that the planning balance weighs in favour of granting planning

permission for the development that supports economic activity with an alternative form of condition, recommended as number 16 below.

6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered PKA/1/002, PKA/1/003 received 21 January 2014 (file ref 14/00141/FUL) , Site Plan PKA/1/004G received 12 August 2014 (file ref 14/00141/FUL), PKA/1/005C received 2 September 2014 (file ref 14/0141/FUL) and transport assessment received 1 May 2014 (file ref 14/00141/FUL), Supplementary Noise Reports of September 2014 received 17 December 2014 (file ref 14/02558/MRC) and Background Noise Survey report September 2016 received 29 September 2016 (file ref 14/02558/MRC) and Stacking Site Plan PKA/2//030A received 20 March 2017 unless otherwise approved in writing by the Local Planning Authority.
3. The approved parking, unloading and turning areas (on drawing PKA/1/004G) shall be maintained clear of any obstruction and retained for their intended purpose at all times.
4. No structures shall be sited within 2 metres of the western boundary of the site which is adjacent land belonging to Network Rail.
5. Double stacking of cabins in the southernmost and easternmost areas indicated on drawing PKA/2/030A shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved in writing by the Local Planning Authority. The southernmost and easternmost areas indicated on drawing PKA/2/030A shall not be used for double stacking of cabins after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
6. No external lighting shall be installed on site except in accordance with the details received on 11 February 2015 unless otherwise approved by the Local Planning Authority.
7. The boundary treatments shown on plan PKA/2/009C received 18th August 2015 (file ref 14/00141/DIS13) shall be implemented in full and thereafter the boundary treatments shall be retained in accordance with the approved details.
8. The approved fork lift truck audible warning safety system for the fork lift trucks shall be operated and be maintained in accordance with the approved scheme submitted on 17th August 2015 (file ref 14/00141/DCN) and the manufacturers' recommendations.
9. No openings shall be created to the eastern elevations of the retained warehouse structures on site.

10. No work shall be undertaken or cabins moved within the application site on Bank Holidays or outside of the hours 07:30 - 18:00 Monday to Friday other than the following activities: (i) Office / administration work; (ii) Works within the workshop building providing doors and windows are kept shut where no noise is discernible at the eastern boundary of the site; (iii) Internal works to the cabins located in the storage area including painting, carpentry, floor laying, electrics and plumbing where no noise is discernible at the eastern boundary of the site; (iv) Painting the cabins located in the storage area; and (v) Movement of forklift trucks and vehicles within the area to the west of the purple demarcation line on drawing PKA/1/004G received by Hambleton District Council on 12th August 2014 which in any event will be no earlier than 06.00 hours and no later than 20.00 hours.
11. No vehicles shall operate between the purple demarcation line shown on drawing PKA/1/004G received by Hambleton District Council on 12th August 2014 and the eastern boundary of the site during a Bank Holiday and not outside the hours of 07:00 to 19:00 Monday to Friday, except for staff accessing the designated parking areas.
12. During works within a workshop the workshop doors and windows to that workshop shall be kept closed.
13. No work shall be under taken outside the workshops other than, painting of the cabins and carpentry works as defined in Table 1 of Supplementary Noise Report DYN260214A/2_SUP dated August 2014, floor laying, electrics, and plumbing with 110 volt hand tools inside the cabins and the movement of fork lift trucks and vehicles within the area of the purple demarcation line shown on drawing PKA/1/004G received by Hambleton District Council on 12th August 2014.
14. The recommendations and mitigation measures identified in the protected species survey received by Hambleton District Council on 11 February 2015 shall be implemented in full.
15. Notwithstanding the submitted drawing PKA/2/030 received on 12th January 2017 cabins shall only be stacked in the 7 shaded areas "annotated as hatched areas" on submitted drawing PKA/2/030A and no cabins shall be stacked to a height of more than 6m unless otherwise approved in writing by the Local Planning Authority.
16. Any cranes which are operating from the site in association with the ongoing operational requirements of the business shall, when in situ, with only the crane arm operating, have no audible warning system except in hazard warning situations such as the overloading of the crane structure.

The reasons for the above conditions are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
3. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
4. In the interests of the safe operation of the adjacent railway.

5. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy DP30.
6. In the interests of local visual and neighbour amenity and the safe operation of the adjacent railway.
7. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
8. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
9. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
10. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
11. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
12. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
13. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.
14. To safeguard against harm to any protected species present within the buildings proposed for demolition.
15. In the interests of neighbour and visual amenity in accordance with Local Development Framework Policy CP1 and DP1.
16. In the interests of neighbour amenity in accordance with Local Development Framework Policy CP1 and DP1.