

Date of Meeting	22 July 2010
Application Number	E/10/0264/FUL
Site Address	SCC Transport Folly Road Devizes Wilts SN10 2HT
Proposal	Siting of a metal sea container and portable office building. Stationing and internal/external washing of milk tankers and milk transhipment.
Applicant	Lloyd Fraser Logistics Ltd
Town/Parish Council	ROUNDWAY
Grid Ref	401735 162595
Type of application	Full Planning
Case Officer	Karen Guest

Reason for the application being considered by Committee

The application has been called to committee by the local division member.

1. Purpose of Report

To consider the recommendation that the application be approved.

2. Report Summary

The main issues to consider are:

- Whether the principle of the development is acceptable.
- Whether the use has a detrimental impact on the amenity of nearby properties.
- Whether the use has a detrimental impact on the character and appearance of the surrounding area.
- Whether the use has any highway safety implications.

Objections have been received from the parish council and from the occupiers of three local properties.

3. Site Description

The site lies at the north-eastern edge of Devizes, close to open countryside. When heading out of Devizes along London Road, the site can be found by taking the left hand turning for Roundway Village, Folly Road, which is just past the Travelodge. The entrance to the Folly Road industrial estate can be found on the right-hand side of the road, just past the housing development on the former Kverneland site, which is on the opposite side of the road. The site occupies a 235 square metre part of the large tarmaced area at the Folly Road industrial estate, immediately behind the roadside hedge. There is currently a modular office building and a steel container within this area.

4. Planning History

K/32632 – Change of use to motorcycle training centre and off-road training area, granted planning permission in April 1996.

K/50620/F – Change of use to B1/B2/B8, granted planning permission in September 2004.

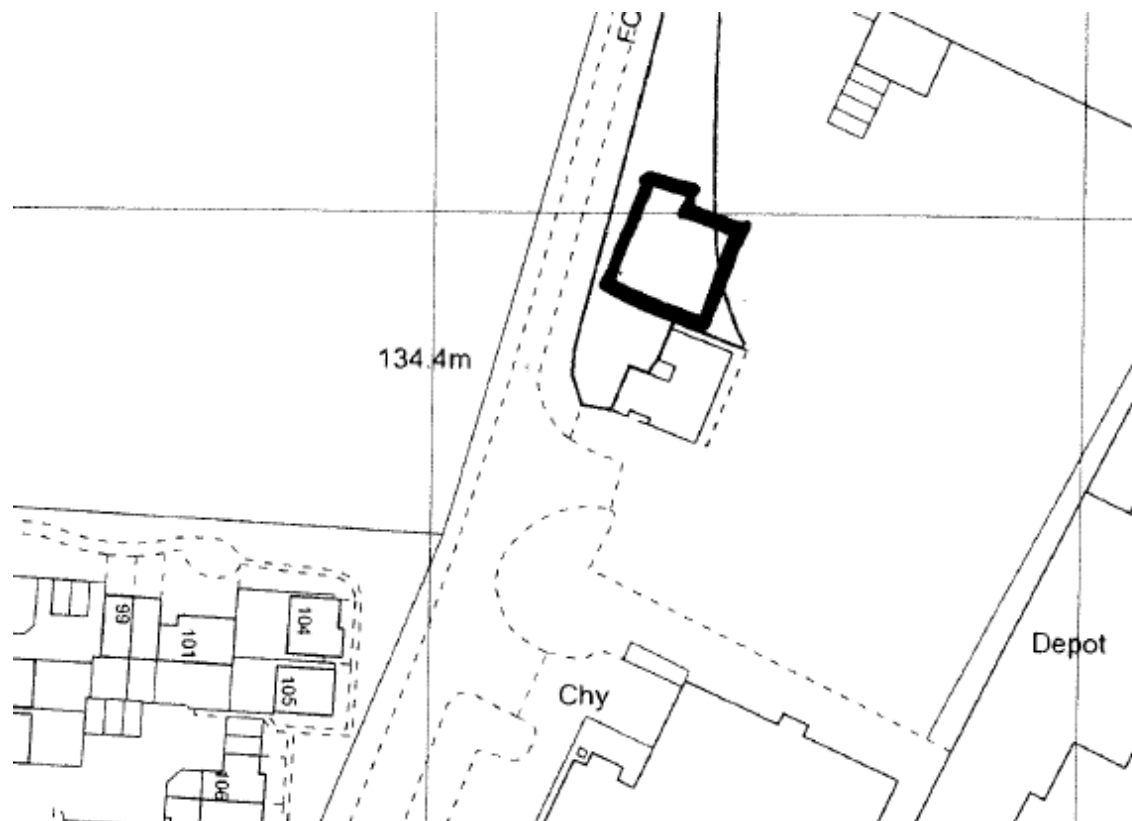
K/51997/F – Change of use from B8 to B1/B8, granted planning permission in May 2005.

5. The Proposal

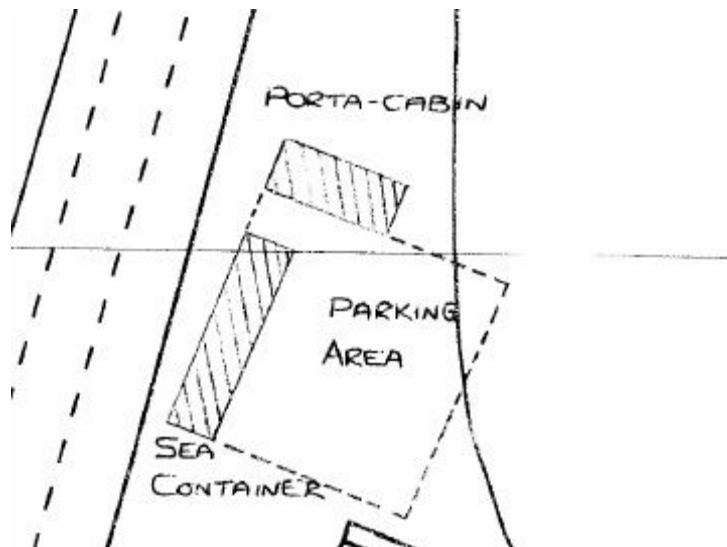
This is a retrospective application for the following:

- Siting of a metal sea container and a portable office building.
- Stationing of milk tankers.
- Internal and external washing of milk tankers.
- Milk transhipment.

The sea container and office building are already in-situ and are positioned close to the existing roadside hedge.



Site Location Plan



Block Plan Showing Positioning of Sea Container and Modular Office Building

The applicant has provided details of the operations that take place within the area outlined in red on the submitted location plan. These are as follows:

Milk Trans-shipment

A farm tanker (of which there are three) is parked next to a bulk tank and approximately twice a day, seven days a week, milk is transhipped between the two via an engine-driven pump. This process takes approximately 20 minutes.

Internal Washing

Internal cleaning of the tanks takes place within the area outlined in red on the submitted location plan. The cleaning operation takes place once every 24 hours, in accordance with The Food Safety Act. The process involves a hot detergent wash and rinse to the tanker, the effluent from which is then discharged to the public sewer under agreement with Wessex Water. The water is heated up by a boiler which is stored within the sea container. All three tankers are washed once a day.

External Washing

In addition to the above, all three tankers are washed externally on a daily basis. This is an external pressure wash and takes 10 – 15 minutes per tanker. A compressor is used to generate sufficient water pressure.

6. Planning Policy

Kennet Local Plan - the site lies within the Limits of Development for Devizes and within an area that is designated as a Strategic Employment Site. Policies ED7 and PD1 in the Kennet Local Plan and guidance contained in PPG 24 'Planning and Noise' are relevant to the consideration of the application.

7. Consultations

Roundway Parish Council – objects to the application:

'The Parish Council object to this application on the grounds of unsuitability and noise that has been pointed out by residents already.'

Environmental Health Officer – In sum, objects to the application if the pumping operation is allowed to commence before 0800. After this time, traffic levels are likely to generate sufficient background noise for the noise from the pumping operation to be insignificant.

Detailed Comments - 'I can confirm that the Environmental Protection Team first received complaints relating the Lloyd Fraser Logistics site, Folly Road, Devizes in early December 2009. The two complainants, residents of White Horse Way opposite, complained that the dairy boiler used by Lloyd Fraser was emitting a droning noise which was causing them disturbance, particularly during the night. Lloyd Fraser Logistics wash out milk tankers, clean vehicles externally, and transfer of milk from one vehicle to another at the site. The operation has a 24 hour a day 7 day a week requirement.

The EP team carried out noise monitoring at 104 White Horse Way on 29th December for 1 day/night using the powers to investigate potential statutory nuisance under the Environmental Protection Act 1990. The monitoring data confirmed that the boiler was emitting a low frequency drone. After investigation it was determined that the drone was being caused by the burner component having worn. On 31st December the new burner was fitted and the noise nuisance abated, as a result of informal negotiation with the company.

In February 2010 the EP team received complaints from the previous complainants regarding lorry movements associated with the Lloyd Fraser operation and other vehicles making use of the car park. The complaints related to lorries entering and exiting the carpark, moving on the site and the tanker/lorry washing/transference of milk between tankers. Between 8th-15th February noise monitoring was carried out at 100 White Horse Way. Having reviewed this data it was noted that the noise did not exceed the World Health Organisation guideline limit for noise exposure (bedrooms) of 35dB, therefore no further action was taken.

On 16th March the noise monitor was installed at 104 White Horse Way in relation to the same complaint. Monitoring took place until the 22nd. On reviewing this data it was noted that the recorded noise relating to the activities at the Lloyd Fraser site, ie washing/vehicle idling was not occurring at statutory nuisance level. The complainant noted a number of vehicle movements on and off site associated with the Lloyd Fraser operation, however there are other businesses that have unlimited 24 hour vehicular access to the site.

Following discussions with Lloyd Fraser representatives the department undertook further noise monitoring on the nights of the 26th and 28th May. This monitoring identified high levels of noise from the pumping operations as well as other activities that could have been undertaken at less sensitive times e.g. vehicle washing (with vehicles left idling for around 10 minutes for no clear purpose). There also seemed to be inconsistent practices where one tanker would come in at around 03:00 and be pumped and another tanker would arrive at 03:30 and the transfer was left for the day team.

Bearing in mind the high noise levels recorded and the variability in practice it is not possible to support the current/proposed arrangements as best practice. There appears to be considerable scope for a number of changes including;

- Use of electric/acoustically screened pumping equipment
- Altering the times of pumping operations
- Changes in practice e.g. not pressure washing vehicles at night and ensuring all vehicles do not undertake excessive manoeuvring or leave engines idling.

The following supplementary technical information was also provided by the Council's Environmental Protection Department:

'The background noise level in the area is approximately 28dBA at 03:30.

The noise at the source i.e. approximately 5 metres from the lorry during the pumping operation is 71dBA. The noise also has clear tonal elements at 80 hertz.

The noise at the façade of the complainant's property based on data gathered in the road outside of house is 49dBA.

The combination of the noise level and its distinctive tonal nature means that it is likely to generate complaints. This fits with the complaints already received from local residents. The noise levels will be as likely to generate complaints at 06:30 as they are at 03:30. It would not be until at least 08:00 in the morning that traffic levels are likely to generate sufficient background noise for the noise from the pumping operation to be insignificant.'

Wiltshire Council Highways – no objections to the application:

'I understand that the site has permitted development for the use/storage by the milk tanker vehicles (related to K/50620/F). While I understand that this application is for the siting of the sea container for cleaning facilities for the milk tankers and an ancillary office building, bearing in mind the existing use at the site as a whole, I do not consider that the proposal creates a significant highway issue. Adequate parking would appear to be available. I therefore recommend that no highway objection is raised to the proposal.'

8. Publicity

A site notice has been posted and neighbour notification has taken place. Three representations have been received which raise the following key concerns.

Owner/Occupier of 104 White Horse Way

- The times of operation (05.15 until 08.30 and returning at 11.00 to start cleaning tankers, which will carry on for most of the day until 21.00) causes a noise disturbance. Tankers have on occasion left at 10.30 and have transferred milk at 02.30 (eg. 26 February). They are left with their engines running for at least 30 – 40 minutes at a time.
- Tankers leave the car park shining lights into our bedroom window and they leave and arrive at speed as there is no speed restriction along Folly Road. Often horns are beeped upon leaving.
- It is noted that Lloyd Fraser wishes to operate in the daylight hours, which could be anything from 04.30 in the summer until 22.00. We would like to be able to leave windows open in the summer months without listening to the noise from diesel engines running at all hours.
- There is a concern about the volume of heavy traffic coming and going in a residential area. This is only supposed to be a car park and on our search we were only told of this, not the heavy industrial use that exists at present.
- Cleaning of the vehicles and the transferring of milk is not protected from the public. There are no warning signs at present and no fenced area around the metal sea container. This is also a health and safety issue as any person or child could approach the area, yet hoses are left around with milk dripping out.
- We have been in touch with environmental health since winter 2009 due to the noise issues associated with Lloyd Fraser. We have had noise monitoring equipment installed in our property and Councillor Mayes has visited the site with the environmental health officer, who found the hoses and the noise from the tankers to be unacceptable.

- We have moved to this area on the understanding that there was a car park opposite and it was a nice quiet area.

Owner/Occupier of 100 White Horse Way

- Planning approval K/51997/F dated 7 April 2005 clearly states “No raw materials, products of any description, skips, containers, scrap, or waste materials, whatsoever shall be stored on the site, except within the building. REASON: *To safeguard the amenities and character of the area.*”
- Furthermore, the planning approval also states, “The noise generated by the operations/processes carried out within the building shall not exceed the background noise level (LA90) by more than +10dB at the boundary of the nearest residential property. The method of assessment shall be carried out in accordance with British Standard 4142: 1997 "Method for rating industrial noise affecting mixed residential and industrial areas" and shall be based on the equivalent continuous A-weighted sound pressure level (LAeq). If at any time the noise exceeds this level, the machinery or plant generating it, or the building containing the machinery and plant generating it, shall be acoustically treated or silenced to bring the noise level below the level specified above. REASON: *In order to protect the amenities of the occupants of nearby residential properties.*”
- The Design and Access Statement for the current application was submitted retrospectively in March 2010. Since 2008 the site has acquired additional residential neighbours due to Council approval of residential development on the opposite side of Folly Road. These neighbours have not been consulted about any recent planning applications.
- There are significant gaps in the boundary hedging at the entrance to the site which creates clear views of the tank washing activities for the residential neighbours.
- When we moved into our house in Nov 2009 we were regularly disturbed (and still are) throughout the night by heavy goods vehicle arrivals. Tank washing activities started at about 6am and we were advised by the operators that, to maintain a working temperature of 60 degrees C the boiler had to run all night. This noise nuisance was compounded by faults with the boiler plant that caused percussive loud noise throughout the night, every night! This was only alleviated on New Year’s Eve when repairs to the boiler were carried out. This action was the result of investigations made by the Environmental Health Team who were called in by residential neighbours. There was no independent, un-pressured commitment by Lloyd Fraser to resolve this noise problem. The structure of the metal sea container acts as an amplifier for the low frequency noise emitted by the machinery.
- The Design & Access Statement states that, “cleaning tank activities have been restricted to daylight hours to avoid disturbance to neighbours”. This has not been the case since at least Nov 2009; activities have commenced well before dawn! Noise complaints from residential neighbours have recently resulted in modifications to working hours but we are concerned that this is only a temporary measure whilst planning is obtained. We still suffer from vehicle movements during night hours, seven days a week! The reference to ‘daylight hours’ is misleading, especially during summer months when ‘daylight’ could mean between the hours of 4.30am and 9.30pm.
- We particularly object to heavy goods vehicle movements, the running of heavy goods vehicle engines and attendant activities such as tank washing and goods transfers out of normal working hours, and especially on Sundays and Bank Holidays.
- We are also concerned about the lack of hygiene when transferring milk

products. This is undertaken in the same area as the tank washing operation. Hoses are allowed to lay on the concrete apron with complete disregard for cross-contamination. Workers do not wear protective equipment. There is no protection from the elements.

Owner/Occupier of 107 White Horse Way

- The business began operating in January 2008 without planning permission. At the time, the only neighbours to the business were those on the industrial estate. Now that has changed and it is considered that the building of the nearby industrial estate of White Horse Way needs to be given strong consideration.
- The main concern is that, although the hours of operation are given as 0900 – 1700 7 days a week, the application does not make reference to the associated milk tankers that are steam cleaned on the site. These tankers appear to be based at the site and come and go in the early hours of the morning, causing a noise disturbance to me and the other neighbours.

9. Planning Considerations

The main issues in respect of this application are whether the principle of development is acceptable and if it would have an adverse impact on residential amenity, the character and appearance of the area and upon highway safety.

Principle of Development

The site is part of a Protected Strategic Employment Site, as defined in the Kennet Local Plan. Policy ED7 of the plan permits uses falling within the B classes of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) within such areas. The B class uses (B1/B2/B8) include offices, light industry, general industry and storage and distribution. The use to which the application relates is industrial in nature and would therefore best be described as a B Class use. Consequently, it is considered that the principle of the use of the site for an employment purpose is acceptable.

Impact on Residential Amenity

Concerns have been raised by some of the occupants of the nearby residential properties in White Horse Way (the former Kverneland industrial site) that the use causes considerable disturbance. Of particular concern is the noise generated by the internal/external washing of milk tankers, the pumping operation, vehicle comings and goings and vehicles being left with their engines running.

The Council's Environmental Protection Team carried out noise monitoring at 104 White Horse Way for one day/night in December 2009 and found that the boiler used in the washing process was emitting a low frequency drone due to a faulty part. This part was replaced and the noise nuisance abated. Subsequent noise monitoring undertaken in February, March and May 2010 revealed that the internal/external washing process was not causing a statutory nuisance during the day or night.

The noise monitoring undertaken on the nights of 26 and 28 May 2010 did, however, identify high levels of noise from the pumping operation. PPG 24 provides guidance at paragraph 19, on noise from industrial and commercial developments, suggesting that consideration is given to the likelihood of complaints about noise. It advises that the tonal characteristics of the noise are likely to increase the scope for complaints and should therefore be taken into account. Another recommended indicator in paragraph 19 is the difference between the noise from the development and the existing background noise. It

advises that a difference of around 10dB or higher indicates that complaints are likely. The noise monitoring undertaken by the Council's Environmental Protection Team revealed the following:

- The background noise level in the area was approximately 28dBA at 0330.
- The noise at the source (ie. approximately 5 metres from the lorry) during the pumping operation was 71dBA.
- The noise had clear tonal elements at 80 hertz.
- The noise at the facade of 100 White Horse Way, based on evidence gathered in the road outside of the house, was 49dBA.

Using the guidance contained in PPG 24, it is evident that the combination of the noise level (being in excess of 10dB above the background noise level) and its distinctive tonal nature means that it is likely to generate complaints. Consequently, it is considered to be unacceptable for the pumping operation to occur during the night. It is considered that it would not be until 0800 that traffic levels would generate sufficient background noise for the noise from the pumping operation to be at an acceptable level and therefore not cause a nuisance. For the same reason, a cut-off time of 2200 is recommended. Consequently, it is recommended that a condition is imposed restricting the hours of the pumping operation to between 0800 and 2200.

The Council's Environmental Protection Team found from their noise monitoring exercises that noise associated with both moving and stationary vehicles was not occurring at a statutory noise level. For this reason and also taking into account the existing industrial use of the site, the fact that there are no other similar restrictions elsewhere on the industrial estate and that it would be difficult to pinpoint which vehicles were causing the noise problem, it is not considered possible to restrict vehicle movements and the running of engines by way of a condition. Such a condition would be both unenforceable and unreasonable.

Impact on Character and Appearance of the Area

The steel container and modular building are positioned at the edge of the industrial estate, behind a mature roadside hedge. As they are not prominently sited, are contained within the industrial estate, are modest in size and are fairly well-screened by the existing hedge, it is not considered that any harm is caused to the character and appearance of the surrounding area. Likewise, the stationing of milk tankers and other vehicles within the red line area shown on the submitted plans does not cause any visual harm as numerous vehicles, including HGV's, park and turn within the industrial estate.

Impact on Highway Safety

The Council's Highways Engineer has raised no objection to the proposal. As the established use on the whole site is B1/B2/B8, it is not considered that this particular use gives rise to any significant highway safety issues, particularly as there is adequate parking/turning and visibility from the access to the industrial estate is reasonably good.

Conclusion

Officers consider that as this is an established employment site, and protected as such in the Local Plan, the use is acceptable in principle provided that the noise generated by the use is not so significant as to cause a nuisance. The main problem is created by the pumping operation. Provided that a condition is imposed restricting the pumping operation hours, the use is considered acceptable.

Accordingly, the approval of planning permission is recommended subject to the following conditions:

RECOMMENDATION

Approve with Conditions

- 1 The pumping operation involved in the transshipment of milk shall only take place between the hours of 0800 and 2200. The pumping operation shall not take place at any other time.

REASON:

To protect the amenities of the occupants of nearby residential properties.

- 2 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Application form, design and access statement, 1:1250 location plan, 1:500 block plan, 1:500 drainage plan and elevation drawings, received on 8 March 2010.