

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Date of Meeting	24 June 2015
Application Number	15/01330/VAR
Site Address	Erin Trade Centre Bumpers Way Bumpers Farm Chippenham SN14 6NQ
Proposal	Removal of Conditions 4 & 5 of 14/04909/FUL In Relation to Hours/Days of Usage & Details of Operation
Applicant	Erin Properties (Swindon) Ltd
Town/Parish Council	CHIPPENHAM
Division	CHIPPENHAM CEPEN PARK AND REDLANDS – Cllr Nina Phillips
Grid Ref	390205 174074
Type of application	Full Planning
Case Officer	Mark Staincliffe

Reason for the application being considered by Committee

The application has been called in by Cllr Nina Phillips, in order to consider the impact varying the conditions would have on residential amenities of local residents.

1. Purpose of Report

To grant planning permission for the removal of condition 5 of planning application 14/04909/FUL.

2. Report Summary

The main issues in the consideration of this application are as follows:

- Principle of development
- Impact on the character and appearance of the area
- Impact on the amenities of local residents

3. Site Description

The site forms part of Bumpers Farm Industrial Estate which is in use for wide range of B class uses including offices, light industry, general industrial, and storage and distribution. The majority of Bumpers Farm consists of large B2/B8 units, some of which have trade counters. The Industrial Estate is well contained, meaning that there is very limited scope for expansion.

In terms of the site specifically, businesses on site include car services, tyre sales and hire car companies. There are also general industrial units. The site is situated in the east of Bumpers Farm Industrial Estate, and is bound by Bumpers Way to the west, existing industrial units to the north and south, and residential development to the east. The site is accessed from Bumpers Way; the access road serves all of the units. Each business has a parking area in front of the unit.

4. Planning History

14/04909/FUL- Change Of Use To A Mix Of B1 Business, B2 General Industrial & B8 Storage or Distribution Uses (Granted)

5. The Proposal

The planning application seeks permission for the removal of Conditions 4 & 5 of application 14/04909/FUL. The conditions are as follows:

Condition 4

The B2 use hereby permitted shall only take place between the hours of 08:30 and 18:00 Monday to Friday and between 08:30 and 17:00 on Saturdays and 10:00 and 16:00 on Sundays. The use shall not take place at any time on Bank or Public Holidays.

Condition 5

No panel beating, panel spraying or mechanical car washing operations shall be carried out within units 5-13 as identified on the approved plans or externally.

6. Planning Policy

The adopted policies relevant to the application are the Wiltshire Core Strategy. The relevant local and national planning policies are set out below.

Wiltshire Core Strategy (WCS)

Core Policy 1: Settlement strategy
Core Policy 2: Delivery strategy
Core Policy 09: Spatial Strategy: Chippenham Community Area
Core Policy 51: Landscape
Core Policy 57: Ensuring high quality design and place shaping
Core Policy 62: Development impacts on the transport network
Appendix D
Appendix E
Appendix G

National Planning Policy Framework

Section 1- Building a strong, competitive economy
Section 7- Requiring good design

7. Consultations

Public Protection:

The application seeks the removal of Conditions 4 and 5.

We would be reluctant to support the removal of condition 4, as, notwithstanding the separate noise condition (no.3) it was clearly attached on the original consent for Public Protection reasons and residential receptors are in very close proximity.

It would seem to be difficult to dispute the removal of condition 5 as the operations would appear to be B2 by definition and other conditions attached to the permission would control noise levels on and around the site.

Cllr Phillips: The application is of real concern to many residents who live very close by this. It would appear that no concern has ever been taken of the fact that the Erin Centre is so close to usually elderly residents or even those who have children either. So noise and lack of landscape are my main reasons for concern.

Chippenham Town Council: No objection. However, the Town Council has concerns that the site is close to residential properties and therefore should provide adequate noise mitigation.

8. Publicity

The application was advertised by neighbour letter and site notice. 9 letters of objection were received

Greensquare Group

Greensquare Group owns a number of residential properties in Longstone Road, Chippenham with rear gardens backing onto Erin Trade Centre. The properties are long established family accommodation in a generally pleasant area.

We note the application to remove conditions 4 and 5 of the current consent allowing B1, B2 and B8 use at Erin Trade Centre and suggest that this could be detrimental to the quality of lives of our resident and those in adjoining properties.

It is noted that the reason for the conditions 4 and 5 is to 'ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interest of the amenity of the area'. We submit that permitting extended B2 use outside of reasonable working hours as defined in condition 4 will allow the opportunity and likelihood for non compliance with condition 3 (limited noise levels) and activity which may be intrusive to residents. An environment free from intrusive levels of noise and activity will not therefore be 'ensured' if this application is approved.

We therefore object to the application and request that you consider our view when making your decision.

Local Residents:

- Houses were built twenty years prior to the units
- Conditions were applied to protect the residents
- Removal of the conditions will harm resident's amenity
- Monitoring outside normal working hours will be difficult to enforce
- Site is too close to residential units to allow unrestricted use of the buildings
- Conditions are already being breached

9. Planning Considerations

Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act states that "*determination must be made in accordance with the plan unless material considerations indicate otherwise*".

This is the starting point from a policy point of view. The Wiltshire Core Strategy (CS) forms the local component of the current development plan.

The site is located within the Chippenham framework boundary, wherein development is acceptable in principle. Furthermore, the site is allocated within the CS for employment generating development and seeks to encourage business development and direct this type of development to established industrial estates. However, policies are clear that any development or use must comply with policy 57(vii) in terms of its impact on the surrounding area and amenities of local residents.

Noise & Amenity

At the request of the Council's Public Protection Team the original application was accompanied by a noise survey, this concluded that the proximity of industrial units to the residential properties shown on the plans is acceptable and will not result in poor living conditions for future occupants.

The Public Protection officer agreed the content of the noise report and was satisfied that the proposed development, subject to conditions, would not have an unacceptable impact on the residential amenities of local residents. To mitigate any harm three conditions were suggested and added to the decision notice. The applicant now seeks to remove two of these conditions.

The public protection officer has confirmed that condition 5 is superfluous and duplicates the safeguards put in place by condition 3 and condition 4 of the original planning permission. Any harm caused by unacceptable noise levels can be controlled by other conditions attached to the permission. The requirement to retain this condition is therefore not justified in planning terms and the condition should be removed.

The planning application also seeks permission to remove condition 4. This condition is considered to meet the 6 tests in Paragraph 206 of the National Planning Policy Framework and should therefore be retained and the public protection officer agrees with this position.

It is noted that condition 3 of the planning permission sets maximum noise levels for specific times of the day, however, these conditions were applied to take into consideration the ambient background noise levels of fans, air conditioning units etc that may be required by businesses operating within these buildings. This would allow businesses to operate within the buildings whilst protecting the amenities of local residents. Removing condition 5 and allowing 24 hour unrestricted use of these building could result in significant disturbance to local residents and therefore conflict with policy CP57 of the Core Strategy.

It is accepted that allowing businesses to operate from these buildings 24 hours a day and resulting noise could, in theory, be controlled by condition 3, however, this does not control lights internal & external lightings, disturbance from running engines and vehicles movements and loud noises that may be less quantifiable, measurable and random/sporadic in nature. Such noises can be of a significant nuisance to local residents particularly outside of usual working hours. This is further compounded by the relative close proximity of the units to residential properties. Relying solely on condition 3 for the protection of the local resident's amenities is not sufficient to comply with the NPPF and policy CP57 of the CS. In order to ensure that the residential amenities of local residents are maintained at an acceptable level and condition 5 must be retained.

10. Conclusion

Permission should be granted for the removal of condition 5 but condition 4 should be retained.

RECOMMENDATION

To grant planning permission for the removal of condition 5 of planning application 14/04909/FUL subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The rear doors and windows in the easterly facades of units 5 to 13, as shown on the submitted plans, shall remain closed at all times whilst the units are open for business;

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

3. During daytime hours of operation (0700-2300) the Rating Level due to activities and/or machinery operated in, on or around each unit shall not exceed 44 dB when measured at a point 3.5m from any dwelling; and

During night-time hours of operation (2300-0700) the Rating Level due to activities and/or machinery operated in, on or around each unit shall not exceed 35 dB when measured at a point 3.5m from any dwelling.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

4. The B2 use hereby permitted shall only take place between the hours of 08:30 and 18:00 Monday to Friday and between 08:30 and 17:00 on Saturdays and 10:00 and 16:00 on Sundays. The use shall not take place at any time on Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class(es) B1, B2 & B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment)(England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case.

6. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan
Existing Floor Plan
Noise Assessment

REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE TO APPLICANT:

7. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.