

**At a meeting of the DEVELOPMENT CONTROL (HETTON, HOUGHTON AND WASHINGTON) SUB-COMMITTEE held in the CIVIC CENTRE on TUESDAY, 6<sup>th</sup> OCTOBER, 2009 at 5.30 p.m.**

**Present:-**

Councillor Fletcher in the Chair

Councillors Chamberlin, Copeland, Heron, Miller, Wake and Wakefield

**Declarations of Interest**

09/03047/LAP –Erection of a single storey extension to the front of the training centre to provide new entrance/reception area, single storey extension to workshop, located to the west of the site and additional doorway in south facing elevation.

Councillor Fletcher declared a personal and prejudicial interest in the application as her son attended the centre.

**Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors Charlton, I. Cuthbert, I. Richardson, Scaplehorn, J. Scott and Snowdon

**Applications made under the Town and Country Planning Acts and Regulations made thereunder**

The Chief Executive submitted a report and a supplementary report (copies circulated) which related to Hetton, Houghton and Washington areas, copies of which had also been forwarded to each Member of the Cabinet upon applications made under the Town and Country Planning Acts and Regulations made thereunder.

(For copy report – see original minutes).

**09/02508/FUL – Erection of a two storey primary care centre comprising: urgent care accommodation, diagnostics, planned care, community teaching, 24 bed rehabilitation unit, physiotherapy suite, staff facilities and café together with carparking, landscaping, and a new entrance to existing leisure centre, erection of new wellness centre and relocation of skate park to the northwest (adjacent to Leybourne Grove) and Wind Turbine. Amended Description.**

The representative of the Chief Executive presented the report and advised that the Wind Turbine had been removed from the proposal as there were still issues to be addressed surrounding the noise implications of the turbine and it was felt that it would be unnecessary to delay the application while these issues were resolved. The wind turbine would be covered by its own separate planning application in the near future.

Councillor Wakefield expressed concerns over the proposal to spend the Section 106 monies on a cycle route along the A182; he felt that this road was inappropriate for a cycle route as it was a narrow road which had a high amount of HGV traffic. He also asked that the tree planting be undertaken as soon as possible to provide screening to the site sooner, he also suggested that the semi mature trees to be removed from the Russell foster site in Newbottle could be replanted.

The representative of the Chief Executive advised that the money was to be spent on the A182 to upgrade provision for cyclists. He agreed to put the suggestion regarding trees to the applicant.

Councillor Wake added that the A182 was also a bus route and then asked whether the change of position of the bus stop had addressed the resident's concerns.

The representative of the Chief Executive advised that the new location overcame any potential problems of noise and disturbance on the immediate property boundary.

Councillor Heron agreed with the comments made by Councillor Wakefield and asked for clarification on why the wind turbine had been removed.

The representative of the Chief Executive advised that there had been a noise assessment however the department believed that further detailed consideration was required. There was a low ambient noise level in the area and the wind turbine could potentially be intrusive. Further consideration would be undertaken to seek to arrive at an outcome that would allow suitable conditions to be imposed to satisfy the requirements of planning, environmental health and the applicant. The Applicants had resolved to withdraw the wind turbine from the application in order to allow the main application to progress while ongoing work to address potential issues in regard to the wind turbine was carried out.

1. RESOLVED that the decision be delegated to the Deputy Chief Executive to either:
  - a. Approve the application subject to a Section 106 agreement being completed by 12<sup>th</sup> October, 2009 or such other date as is agreed by the Deputy Chief Executive, for the reasons set out in the report and

subject to the conditions therein and subject to condition 27 being amended to read as follows:

27. No development shall be commenced until the application site has been subjected to a detailed desk study and site investigation and remediation objectives have been determined through risk assessment, and approved in writing by the local planning authority and detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the "Remediation Statement") have been submitted to and approved in writing by the local planning authority, in the interests of residential amenity and to comply with policy EN14 of the UDP.

Or

- b. Refuse the application on the grounds of inadequate infrastructure should the Section 106 agreement not be completed by 12<sup>th</sup> October, 2009 or such other date as agreed by the Deputy Chief Executive.

#### **09/03268/FUL – Erection of dormer window to front (Retrospective)**

The Chairman moved that the decision be deferred to allow a site visit to take place.

The Members agreed that they needed the opportunity to see the site.

2. RESOLVED that the application be deferred pending a site visit.

#### **09/02803/VAR – Variation of condition 5 of planning permission 07/01286/FUL to allow operating of warehousing and logistics Monday to Friday to operate 0600 – 2200 with vehicle loading restricted to 0745 – 2000 Monday to Friday with no change required for Saturday, Sunday and Bank Holidays as per the original planning permission (amended description)**

Councillor Wake explained that there had been a number of complaints from residents that the business had already been operating until 11:30p.m. If this application were to be approved the residents were concerned that the applicant would simply disregard the new times. The site was in close proximity to houses and he felt that the condition that allowed the business to operate later when there were allegedly circumstances outside of their control should not be allowed.

The representative of the Chief Executive advised that if the application was approved then he hoped that the company would comply with the operating hours. Failure to comply with the conditioned hours would result in planning enforcement. The applicant had agreed to provide an acoustic fence even though this was not a requirement; the fence would be 1.8 metres high and would be constructed from close boarded timbers or similar.

Councillor Wakefield stated that enforcement action should have taken place when the planning permission was first breached. The problem should be solved rather than just moving the goalposts. On forklift trucks it was not a requirement for

reversing beepers to be fitted as long as there was a visual warning in operation; the applicant should consider whether it was necessary for the beepers to be used.

The representative of the Chief Executive stated that the way planning tended to operate was that in certain circumstances, if conditions were breached discussions were held with the applicant and if the issue could be resolved through the submission of a planning application this course of action was taken rather than formal enforcement proceedings.

Councillor Miller stated that he had seen and heard the late night operations taking place. He had concerns over the impact of the operation on the quality of life for local residents. He suggested that a temporary approval be given as this would allow the situation to be monitored while not having a detrimental effect on local business. Vehicle movements at 8pm were unlikely to cause a disturbance but later in the evening it was more likely that a disturbance would be caused.

Councillor Chamberlin expressed concerns regarding the noise survey. She felt that it was not an independent assessment and that it had not been carried out in accordance with British Standard 4142. There should have been a baseline figure worked out over a 24 hour period and then a threshold set over the baseline. For sporadic or intermittent noises there should have been 5 decibels added to the recorded level which would have put the noises over the threshold. She felt that the acoustic fence would cause more problems as it would deflect the noise from the North West corner and towards other houses. A limit on the working hours would reduce the need for the acoustic fence. There was a need for a noise assessment to be carried out all around the site.

The representative of the Council's Environmental Health department advised that BS4142 stated that there needed to be assessments over 1 hour during the day and over 5 minutes at night and that it did not need to cover a 24 hour period. The assessment had covered the background noise and the noise from the warehouse. The results had shown that it would be unlikely that there would be complaints from residents and there had not been any complaints to Environmental Health. The standards for the noise survey required that a period of time was chosen that would represent the worst case scenario for within the 24 hour period. In this instance the survey had been carried out over 24 hours and was therefore better than the standard. The assessment had been carried out at the South West corner of the site which was where the building was closest to residential properties. The majority of residents would be protected from noise by the warehouse itself.

Councillor Chamberlin then stated that there had been objections however they had been made to planning enforcement rather than Environmental Health. The assessment did not follow the standards as there had not been a weighting of 5 decibels added when there was intermittent noise.

The representative of the Council's Environmental Health department agreed that when there was intermittent noise then 5 decibels needed to be added. The majority of the noise in the area was road noise which was constant. The noise spikes had been identified by the consultant as being the periods of heavy rain and these spikes had been excluded from the report. It appeared that the main cause for concern was

reversing beepers on forklift trucks; these could be switched off and alternate alerting methods could be used.

Councillor Heron stated that in his experience reversing beepers were normally turned off at night. Acoustic fences worked well to reduce noise however they were not nice to look at. The acoustic fence on the A690 had a hedge planted in front of it to improve visual amenity.

Mr Reid spoke on behalf of the residents of Mallard Close, the closest residential street to the industrial estate. He advised that:-

- The time restrictions were in place to protect the local residents, the development needed to respect the residents.
- 6pm was the most suitable closing time for the warehouse.
- The applicants had disregarded the existing closing time condition. One resident had recorded 33 breaches since December 2008.
- The trees surrounding the site were supposed to provide a screen however in winter it was not effective.
- He was surprised to hear that there apparently had not been any complaints, it was obvious that there was a problem otherwise the residents would not have attended the meeting.
- The noise survey would have been better if it had been carried out over a longer period. The survey was supposed to have been carried out on a typical working day however on the day of the survey there was new racking being installed in the warehouse and therefore he felt there would have been less noise from loading HGVs.
- The report had noted that there were operations taking place until 11.15 pm, in breach of the existing planning conditions.
- The report was flawed and was therefore invalid.
- The residents were objecting to any change to the conditions and wanted the existing conditions to be enforced.

Mr Short, Managing Director of Smithers Oasis UK Ltd, spoke in support of the application. He advised that:-

- He had no problem with replacing the beepers on the forklift trucks with visual warnings as long as his duty of care to his employees was not impaired.
- He had no problem with installing fences and hedges but asked that residents bear in mind that hedges would take time to grow before they were fully effective.
- The company had sought professional advice for the noise survey. He did not know whether it was accurate as he personally was not an expert.
- Efforts had been made to reduce the noise. It was important to bear in mind that this was simply a warehouse; it was not a noisy factory.
- Extending the hours would allow the work to be spread out more which would stop the work from overrunning in the way it did now.
- There were 33 new employees and this had resulted in increased congestion in the site. The new hours would reduce this congestion and would reduce the risk of accidents.
- Efforts had been made to reduce the impact on residents. The company had volunteered to restrict the hours of loading.

- The installation of racking that took place on the day of the survey possibly made more noise than the normal operations.

Councillor Wake commented that he accepted that this was industrial land however when residents bought their houses they had not expected the businesses to expand to be so close to the houses. The beepers would not cause a nuisance if they were regular however when they are at differing times then they become a nuisance.

Councillor Miller stated that the industry was there before the houses however he agreed with Councillor Wake that no one had expected so much growth on the industrial estate. He asked whether there were any grounds to refuse the application. He suggested that if permission was granted then it should be a temporary consent to allow monitoring to take place and to ensure that there was minimal impact on the local residents. He advised the residents that if there were any problems then they should contact Environmental Health.

The representative of the Chief Executive stated that it would be possible to refuse to grant consent however it would be likely that consent would be granted on appeal and that costs would be awarded against the Council. This case was unusual as the factory had no time restrictions while the warehouse did, even though both were within the same planning unit. There was no evidence that the source of the noise was the warehouse. If the Members felt it was appropriate then a temporary consent could be granted to allow for monitoring.

Councillor Chamberlin stated that there should be an adequate noise assessment carried out that would show the source of the noise. There was a duty of care towards the residents and as such the late operation could not go on for another 12 months. She moved that the decision be deferred pending a suitable noise survey being completed.

Councillor Wake seconded the motion.

Councillor Heron commented that the noise attenuation work should have been done earlier. He agreed with the approval of the application for a temporary period as this would allow monitoring to take place.

Councillor Wakefield commented that he would rather see the installation of noise attenuation measures than for more surveys to be carried out.

Councillor Miller stated that a temporary approval would be the best solution as it would ensure that the company had to work with the Council and they would have to comply with the conditions. It would be a waste of time if the application was deferred pending another noise assessment.

The decision was put to the vote, and:

2 Members voted to defer the decision; and  
5 Members voted for the temporary grant of planning approval.

Therefore it was:

3. RESOLVED that consent be granted for a period of 12 months, to allow further monitoring to take place, for the reasons set out in the supplementary report and subject to the 9 conditions set out therein.

**09/03047/LAP – Erection of a single storey extension to the front of the training centre to provide new entrance/reception area, single storey extension to workshop, located to the west of the site and additional doorway in south facing elevation. (Amended Description)**

4. RESOLVED that consent be granted in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 for the reasons set out in the supplementary report and subject to the 4 conditions set out therein.

**Items for Information**

5. RESOLVED that the following site visits be undertaken:
  - a. 09/02813/FUL – 5B Freezemoor Road, New Herrington Industrial Estate, Houghton-le-Spring. At the request of Councillor Miller
  - b. 09/03207/LAP – Pond/Lake 1, Princess Anne Park, Washington Town Centre, Washington. At the request of Councillor Miller.
  - c. 09/03675/FUL – Washington Envelopes Ltd, Industrial Road, Hertburn Industrial Estate, Washington. At the request of Councillor Miller.

**Town and Country Planning Act 1990 – Appeals**

The Director of Development and Regeneration submitted a report (copy circulated) concerning the above for the period 1<sup>st</sup> August, 2009 to 31<sup>st</sup> August, 2009.

(For copy report – see original minutes).

6. RESOLVED that the report be received and noted.

(Signed) J. FLETCHER,  
Chairman.