

<p><b>Reference:</b> 19/01739/CV</p>	<p><b>Site:</b> Unit E2 Stanhope Industrial Park Wharf Road Stanford Le Hope Essex SS17 0EH</p>
<p><b>Ward:</b> Stanford Le Hope West</p>	<p><b>Proposal:</b> Variation of condition 7 (Hours of movement for commercial vehicles) of planning permission ref: 00/00037/FUL to extend the hours of movement for commercial vehicles by 1 hour in the morning only to between the hours of 6 a.m. to 7 p.m. Monday to Saturday and not at all on Sundays or Bank Holidays.</p>

<b>Plan Number(s):</b>		
Reference	Name	Received
No nos.	Location Plan	27 November 2019

The application is also accompanied by:

Correspondence from the Applicant – received 20<sup>th</sup> March 2020

<p><b>Applicant:</b> Mr Sam Barr</p>	<p><b>Validated:</b> 29 November 2019 <b>Date of expiry:</b> 20 July 2020 (Extension of time agreed with applicant)</p>
<p><b>Recommendation:</b> To Refuse</p>	

This application is scheduled for determination by the Council’s Planning Committee because the application has been called in by Councillors Hebb, Jefferies, Gledhill, Johnson, Watkins and Maney. The reason given is that the Committee is requested to investigate the loss of amenity associated with earlier operating hours in accordance with Part 3 (b) 2.1 (c) of the Council’s constitution.

**1.0 DESCRIPTION OF PROPOSAL**

1.1 This is an application submitted pursuant to s73 of the 1990 Act for the variation of conditions attached to the planning permission (ref. 00/00037/FUL) for the use of the land for storage. Planning permission for this development was granted in August 2000. The planning permission was subject to a number of conditions. Condition 7 of

this permission reads:

*No commercial vehicles of any kind shall visit or leave the site between the hours of 7 p.m. and 7 a.m. Monday to Saturday and not at all on Sundays or Bank Holidays.*

*Reason: To protect the amenities of nearby residents*

- 1.2 Permission is now sought to vary the condition by extending the hours of movement for commercial vehicles by 1 hour in the morning to allow vehicles to access the site from 06:00 onwards, rather than 07:00 on weekdays and Saturdays only. No changes are proposed for Sundays or Bank Holidays, when movements are prohibited.

## 2.0 SITE DESCRIPTION

- 2.1 The application site lies within the Stanhope Industrial Estate which is designated as a Secondary Commercial and Industrial Area in the Development Plan.
- 2.2 The site is currently used as a scaffolders' yard and is on the southern side of the central access road that runs through the industrial estate, diagonally opposite the Travis Perkins premises.

## 3.0 RELEVANT PLANNING HISTORY

- 3.1 The following table provides the relevant planning history:

Application Reference	Description of Proposal	Decision
00/00037/FUL	Use of land for storage of motor vehicles	Approved
02/00192/OUT	Erection of building for the purpose of tyre shredding. Overnight parking of lorry. Vehicle de-pollution.	Approved
03/00282/REM	Erection of building for purpose of tyre shredding and vehicle de-pollution, overnight lorry parking	Approved
04/00888/OUT	Proposed facility for the manufacture of rubber matting from re-cycled tyres.	Refused
18/01635/FUL	Construction of flexible industrial units (B1(c)) with associated new access road and parking, sewage treatment and new incoming services.	Approved

## 4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

4.2 **PUBLICITY:**

This application was publicised by way of individual neighbour notification letters and public site notice which has been displayed nearby.

4.3 Sixteen letters of objection have been received on the following grounds:

- Additional traffic
- Excessive noise
- Environmental pollution
- Litter and smell

4.4 **ENVIRONMENTAL HEALTH:**

No specific comments raised.

4.5 **HIGHWAYS:**

Recommend refusal.

4.6 **LANDSCAPE AND ECOLOGY ADVISOR:**

No objection.

**5.0 POLICY CONTEXT**

5.1 National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012 and updated on the 19th February 2019. Paragraph 10 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 2. Achieving sustainable development

- 4. Decision-making
- 6. Building a strong, competitive economy

## 5.2 National Planning Policy Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Determining a planning application
- Noise
- Use of Planning Conditions

## 5.3 The Development Plan

### Thurrock Local Development Framework (as amended) 2015

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” in (as amended) in January 2015. The following Core Strategy policies apply to the proposals:

#### OVERARCHING SUSTAINABLE DEVELOPMENT POLICY

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)

#### SPATIAL POLICIES

- CSSP2 (Sustainable Employment Growth)

#### THEMATIC POLICIES

- CSTP6 (Strategic Employment Provision)

#### POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)

## 5.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an

Issues and Options [Stage 1] document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options [Stage 2 Spatial Options and Sites] document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

## 6.0 ASSESSMENT

6.1 This is an application under section 73 of the Town and Country Planning Act 1990 to vary conditions attached to a grant of planning permission. Where an application submitted under S.73 of the 1990 Act is approved, the legal effect is to issue a new grant of planning permission, whilst leaving the original planning consent unaffected.

6.2 Accordingly, if the current application is approved both the original consent (00/00037/FUL) and this application would comprise 'self-contained' planning permissions, although the latter permission can be assumed to represent the more 'up to date' consent. When considering an application under s.73, the Council as Local Planning Authority should consider matters related to the conditions only and not the planning permission itself.

6.3 The assessment below covers the following areas:

### I. Neighbour Amenity Impacts

#### i. NEIGHBOUR AMENITY IMPACTS

6.4 The reason for the imposition of the condition in 2000 was "*To protect the amenities of nearby residents*". The assessment of this application is therefore based solely on the impact of an extension of the operating hours on the amenity and living conditions of the nearby residential occupiers. The Stanhope Industrial Estate is accessed via Wharf Road where there are a number residential properties, accordingly any vehicle traffic will pass these residential properties.

6.5 Although the condition was imposed in 2000 its purpose and reason remains valid today. The use of conditions in this form is consistent with the provisions in the NPPG, which advise that authorities can use planning conditions to restrict activities allowed on sites at certain times and differentiating as appropriate between different times of day, such as evenings and late at night as one way of addressing the adverse effect of noise.

6.6 Paragraph 180 of the NPPF requires that planning policies and decisions should ensure new development is appropriate for its location, taking into account likely effects on living conditions and that LPAs should "*mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*"

- 6.7 Policy PMD1 states that development will not be permitted where it would cause or is likely to cause unacceptable effects on amongst other matters the amenities of the area and the amenity, health or safety of others which includes local residents.
- 6.8 In the supporting statement accompanying the application, the applicant states that the extension to operating hours relates to 5 HGVs and that no additional vehicles are involved. Furthermore, they claim that nuisance levels are low and drivers adhere to speed and time restrictions and vehicles are fitted with tachometers. No further justification has been provided in support of the proposed extension of hours.
- 6.9 The information put forward is limited and does not provide any substantial justification for an extension to the hours. The 06:00 to 07:00 time period is one in which residents could reasonably expect low levels of vehicle movements and no disturbance to sleep from large vehicle movements. It is considered that allowing an extension of time would cause noise and disturbance, and therefore harm to the amenity of residents in Wharf Road.
- 6.10 Although every application is determined on the basis of individual circumstances and its merits it should be noted that the condition attached to the 2000 permission covers almost every other plot consented before and since this application. Allowing this occupier to extend their hours of operation would make it very difficult to refuse other similar applications which would lead to a significant increase in vehicle traffic at early hours in the morning which would seriously impact on the amenities of nearby neighbours.
- 6.11 Accordingly, the proposed extension of time, would result in large vehicle movements at antisocial hours which would be detrimental to the amenities and peaceful enjoyment of the dwellings for occupiers in Wharf Road, contrary to Policy PMD1 of the Core Strategy and guidance in the NPPF.

## **7.0 CONCLUSIONS AND REASON FOR REFUSAL**

- 7.1 The proposed extension to the hours of operation is undesirable, would be likely to lead to an environment prejudicial to the amenity of the nearby residential occupiers and would be contrary to Core Strategy policy PMD1 and guidance in the NPPF.

## **8.0 RECOMMENDATION**

- 8.1 Refuse for the following reason:

The proposed extension to the hours of operation is undesirable, would result in additional large scale vehicle movements which would be harmful to the amenities and living conditions of the nearby residential occupiers in Wharf Road, contrary to Policy PMD1 of the Core Strategy 2015 and paragraph 180 of the NPPF.

### **Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by discussing the application process with the Agent and seeking to determine this at the first available opportunity. Unfortunately, due to the principle concern with the development it was not possible to negotiate on the application to achieve a positive outcome. However, the Local Planning Authority has clearly set out, within its report, the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online: <http://regs.thurrock.gov.uk/online-applications>

