

MC/13/2742

Date Received: 30 October, 2013

Location: Land adjacent to Bellwood Cottages, Ratcliffe Highway, Hoo St Werburgh, Rochester, Kent

Proposal: Application to remove condition 14 (hours of operation) of planning permission MC/08/1121

Applicant: A C Goatham & Son

Agent: Mr T Ogden Bloomfields 77 Commercial Road Paddock Wood Tonbridge Kent TN12 6DS

Ward Peninsula

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 23 April, 2014.**

**Recommendation - Refusal**

- 1 The application site is located close to residential properties and it is appropriate to ensure that the amenities of surrounding residents are protected from the activities at the application site that may cause noise and disturbance. The removal of the condition controlling the hours of operation would therefore be contrary to Policy BNE2 of the Medway Local Plan 2003.

**Proposal**

This application is to remove condition 14 (hours of operation) of planning permission MC/08/1121.

Condition 14 reads as follows:

*The use hereby permitted shall only operate between the hours of 6:30 to 18:30 Mondays to Fridays inclusive and between the hours of 7:00 to 13:00 on Saturdays and at no times on Sundays and, Public Holidays unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.*

## Relevant Planning History

- MC/13/2740 The change of use and creation of an area of hardstanding to provide for the stationing and storage of 6 caravans for agricultural workers, the change of use and the creation of an area of hardstanding for storage of apple bins and the parking of vehicles including HGVs and the erection of two smoking shelters  
Also on this agenda.
- MC/13/2741 Variation of condition 1 to allow for a minor material amendment to planning permission MC/11/2579 to alter the elevations of the buildings with the insertion of additional openings and the extension of the hardstanding area to the southwestern end of the buildings.  
Approved, 13 March 2014
- MC/13/2664 Variation of conditions 1,4 and 7 of planning permission MC/11/2579 for approval of reserved matters (layout, scale, appearance, access & landscaping) pursuant to outline permission MC/08/1121 for construction of a fruit processing & storage facility with associated access.  
Withdrawn, 29 October 2013
- MC/12/1542 Application for Prior Notification under Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the construction of a reservoir.  
No application required, 25 July 2012
- MC/12/0179 Application for Prior Notification under Schedule 2 Part 6 & 7 of the Town & Country Planning (General Permitted Development) Order 1995, as amended for formation of a reservoir and banking.  
Refused, 17 February 2012
- MC/11/2579 Application for approval of reserved matters (layout, scale, appearance, access & landscaping) pursuant to outline permission MC/08/1121 for construction of a fruit processing & storage facility with associated access  
Approved, 25 April 2012
- MC/08/1121 Outline application for the construction of a fruit processing and storage facility with associated parking  
Approved 19 January 2011
- MC/07/0200 Outline application for the construction of a fruit processing and storage facility with associated parking  
Refused, 24 July 2007

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

High Halstow Parish Council and Hoo St Werburgh Parish Council have also been consulted.

**8 letters** have been received raising the following objections:

- Light pollution at all hours
- Disturbance from noise at all hours
- Condition applied to protected neighbours amenities. The situation with regard to the location of neighbours has not changed so protection of amenities should remain
- It is only fruit being delivered so no justification as to why they cannot wait to be delivered during the hours originally applied.

Other objections have been raised with regard to the other planning application currently under consideration (MC/13/2740). They are not listed here as they are not relevant to this application but will be considered as part of the processing of that application.

**High Halstow Parish Council** have written objecting to the proposal for the following reasons:

- Light pollution at all hours
- Disturbance from noise at all hours
- Condition applied to protect neighbours' amenities. The situation with regard to the location of neighbours has not changed and so protection of amenities should remain
- It is only fruit being delivered so no justification as to why they cannot wait to be delivered during the hours originally applied.
- Surface water control
- Activity levels
- Traffic generation

High Halstow Parish Council also requested that this application be determined by Planning Committee.

**Hoo St Werburgh Parish Council** have written objecting to the proposal the following reasons:

- Activity levels
- Traffic generation
- Noise pollution
- Light pollution
- Surface water control

### **Development Plan Policies**

The Development plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this

application have been assessed against the National Planning Policy Framework, 2012 (NPPF) and are considered to conform.

## **Planning Appraisal**

### *Amenity Considerations*

Condition 14 was applied to the planning permission (MC/08/1121) to control the hours of operation within the site in the interests of amenity and in accordance with Policy BNE2 of the Medway Local Plan 2003. Policy BNE2 of the Medway Local Plan 2003 states that all development should secure the amenities of its future occupants and protect those amenities enjoyed by nearby and adjacent properties.

In order to properly consider the issue, an acoustic report was requested. The acoustic report has been considered and is not fully accepted for the following reasons:

- Only one 24-hour period of sampling was taken close to the residential properties at Bellwood Cottages. No readings were taken over the weekend, especially on a Sunday when the background noise level would be expected to be lower. The removal of condition 14 is likely to have a greater impact in terms of noise and disturbance for residents in nearby properties in the evenings and at weekends.
- Section 3.0(a) of the submitted acoustic report states that the noise levels measured on site during the noise survey are typical of the site from Monday to Sunday. However, as the site does not have planning permission to operate Monday to Sunday the typical noise levels are not accepted. The typical noise level on a Sunday would be no site noise and thus there would be lower background noise levels, in which case the measured noise levels for the different activities listed in Table 5 (Bellwood Cottages Analysis), 6 (Homeleigh Farm) and 7 (Solomon's Farm) should refer to the lowest background recorded over the weekend.
- In relation to Table 4, the calculated mean average background levels are used. There is no justification as to why the actual recorded background levels were not used. Also, there is no reference to the residual noise level, as referred to in BS 4142 1997. As such, no correction to the noise rating level can be made, if appropriate.
- Section 5.0 refers to the conditions at the time of the survey and refers to the roads being wet. This will increase the noise from traffic on the dual carriage way. The background noise levels are therefore likely to be lower than those reported. All background levels are reported at one hour time intervals. BS4142 section 6.2 recommends the reference time interval at night to be 5 minutes. The recordings between 0600 and 0700 and 2300 to 0000 should be at this time interval.
- In Table 5 (Bellwood Cottages Analysis), between 0600 and 0700 the background should be given as 5 minute time intervals as specified by BS 4142 not hourly. In addition, the table is split between current operations and proposed operations. The hard standing already exists and is in use so the terminology is misleading. The chiller units are described as being inaudible at the receiver under current operations but under the proposed operation,

noise levels are given but no explanation of the difference is provided. Furthermore the measured distance between r1 and r2 is required for each activity to confirm distance attenuation calculations.

- In Tables 5 (Bellwood Cottages Analysis), 6 (Homeleigh Farm) and 7 (Solomon's Farm) r1 is given as 1m however, section 7.3 says r1 is 3 metres.
- In these tables, under the proposed operation the 'tanker at fuel point' and 'refrigerated lorry at junction to entrance' are classed as not applicable but no explanation is given as to why this is the case.
- Section 7.4 relates to the Analysis. The findings within this section are not fully accepted. It is agreed that between 0700 and 1900 the noise from the operations are unlikely to cause complaints based on readings taken during a weekday. However, background readings during the weekend, particularly Sunday, will probably give lower readings and should be used. The 0600 to 0700 background level should be reported at 5 minute intervals not hourly and this section also says that if the site operates after 1900 complaints are likely. If the calculated hourly background levels are accepted, the background drops by as much as 9dB (Table 4) when comparing the times for 1400 to 1500 and 2200 to 2300. After 2300, 5-minute time intervals for the background noise level should be used. This section also refers to the possibility of a number of activities being undertaken at the site at the same time. The impact of this could be significant but no details are given as to what these multiple activities could/will be.
- Finally Section 8 sets out recommendations. This section refers to excess noise over the background noise level. The background noise level used to illustrate this point is not given. If the calculated background level is used, either 49.1 or 45.9 for the time period 2000 to 2100 and 2100 to 2200 respectively, the excess over background is greater than the 3.3dB stated in the report.

To conclude, it is agreed that the impact of operations during the hours for which planning permission is granted is unlikely to give rise to complaints. However, the case to extend the hours of operation outside these times is not justified and as demonstrated by the letters of representations received, is already resulting in noise and disturbance to surrounding residents. The proposal is contrary to the provisions of Policy BNE2 of the Medway Local Plan 2003.

#### *Local Finance Considerations*

There are none relevant to this application.

#### **Conclusions and Reasons for Recommendation**

The reason for originally imposing the condition with regard to the protection of the amenities of surrounding residents remains relevant. The submitted application information fails to demonstrate that there will be no detrimental impact on the amenities of surrounding residents if the hours restriction were to be lifted. As such there is not sufficient justification to warrant removing the condition. The proposal is therefore contrary to Policy BNE2 of the Medway Local Plan 2003.

The application would normally be determined under delegated powers but as the

original application, and thus the relevant condition, was considered by the Planning Committee, it is appropriate that Committee determine this application.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/donline/AcolNetCGI.gov>