

SCHEDULE B

APPLICATION NUMBER	CB/10/04362/FULL
LOCATION	Land at Lower End, Knolls View, Totternhoe, Dunstable, LU6 2BU
PROPOSAL	Demolition of existing building and erection of replacement building for B2 purposes
PARISH	Totternhoe
WARD	South West Bedfordshire
WARD COUNCILLORS	Cllr Ken Janes & Cllr Marion Mustoe
CASE OFFICER	Mr J Spurgeon
DATE REGISTERED	27 January 2011
EXPIRY DATE	24 March 2011
APPLICANT	JGE Commercials
AGENT	Wilbraham Associates Ltd
REASON FOR COMMITTEE TO DETERMINE	Ward Member Call-in by Cllr Mrs M Mustoe: Landmark application on a complex site with Parish Council concern.
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The site lies within the 2ha plant area of the former Totternhoe Lime and Stone Company (TLS) at the end of Knolls View, which ceased operation as a lime hydration plant in about 2009. Before that time it was also the centre of chalk quarrying activities. The plant area was sold to the applicant company who occupies part of it in connection with his business of adapting used lorries and heavy plant vehicles for resale and who lets to other companies, the main one being Newton Transport, a heavy vehicle repairer.

About 2,600m² buildings remain in the plant yard of which about 650m² are of brick or other substantial material and capable of conversion to reasonable quality accommodation, 650m² brick garages with low headroom, and 1,300m² steel framed sheds clad in corrugated steel sheets, previously used for lime hydration and storage and 'contaminated' by loose lime to varying degrees. Most of this latter group are also non-weatherproofed. Included in this category is a long 'nissen' style building of 410m² with corrugated steel cladding moulded round curved steel ribs and bracing above a low railway sleeper base, except for the front (north) end which is mainly open without doors. It was last used for informal lorry parking and prior to that, chalk storage. The application site comprises the building together with an area of concrete surfacing immediately next to it.

The plant yard is accessed from Knolls View by a surfaced road and rises south-eastwards into the hillside where it is flanked by steeply rising embanked haul roads. The left hand (west) haul road opens onto the top of the 'Brockham Kilns' which presents a long vertical wall about 12m high overlooking the rear of the plant yard to the north. The site is at the foot of this wall, the nissen building sitting at a slight angle to it, and is also enclosed to the north by the other rising haul road, albeit lower. To its rear is a covered reservoir at a much higher level. An 'outlier'

building is located beyond this reservoir to the south, and is used for recycling of plasterboard (B2).

Most of Newton Haulage vehicles are parked round the buildings it occupies and vehicles of the applicant's business are parked extensively to the north of the plant yard, especially against the eastern boundary with open countryside. The immediate vicinity of the site is much quieter and mainly empty except for the unused historic buildings.

The Application:

This application was called-in by Councillor M Mustoe in order that the Committee may consider the concerns of the Parish Council in this small but landmark application on a complex site.

It is proposed to demolish the 410m² building and to replace it with one of 242m² and of a modern portal frame design for B2 use. It would be 4.6m high to eaves and 6.2m to ridge on the shallow roof; the nissen building is 7m to top of arch. The walls would be brick to half height with profiled coated steel sheeting above. There would be 2 full height doors and 2 personal doors in the front (north) elevation. The roof would be in metal profile sheeting with 7 rooflights facing south-east. 8 parking spaces would be provided on the front apron.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development; PPG2 - Green Belts; PPS4 - Planning for Sustainable Economic Growth; PPS5 - Planning for the Historic Environment; PPS7 - Sustainable Development in Rural Areas; PPG13 - Transport; PPG24 - Planning & Noise; PPS23 - Planning and Pollution Control.

Regional Spatial Strategy:

East of England Plan (May 2008)

T8 Local roads
T9 Walking, cycling and other non-motorised transport
T14 Parking
ENV1 Green infrastructure
ENV3 Biodiversity and earth heritage
ENV7 Quality in the built environment

Milton Keynes and South Midlands Sub-Regional Strategy

Policy 2(a) Luton, Dunstable and Leighton Linlade

Bedfordshire Structure Plan 2011

25 - Infrastructure

South Bedfordshire Local Plan Review Policies

BE8 Design Considerations
NE12 Re-use/Adaption of Rural Buildings
T10 Parking - New Development
E2 Development - Outside Main Emp Areas

Supplementary Planning Guidance

Design in Central Bedfordshire - A Guide for development, 2010
Planning Obligations SPD

Planning History

Site is part of former Totternhoe Lime and Stone Company premises, within whose relict plant area the site lies. The history includes key decisions within the plant area.

SB/TP/05/0242	Refusal - Closure of lime works, use of old lime kilns and engine shed as storage and maintenance facility in conjunction with existing and proposed open space, demolition of all other buildings, erection of 40 dwellings and associated road and car park. Appeal dismissed.
SB/CPD/09/0044	Issue of Certificate of Lawfulness - Hydration of lime being a use within Class B2. (Appeal against non-determination).
Council Opinion	Letter issued by CBC 16/6/10 - reducing plasterboard into cardboard and gypsum considered to be within Class B2. (Carbonate shed).

Representations: (Parish & Neighbours)

Parish Council (18/2/11,
17/3/11)

Objects:

- inappropriate development in Green Belt
- adverse impact on residents of passage of goods vehicles along Knolls View
- adverse impact on safeguarding countryside
- no mention of an intention to offer employment to local people
- impact of goods vehicles on Castle Hill Road.

Sometimes vehicles from the present plant yard pass houses in Knolls View at 2 and 3am and on Sundays.

However, welcomes:

- reduction in size of building
- proposed planting screening
- limiting operating hours on proposed building.

Concerned that the applicant would not limit operating hours on existing tenants. It is unacceptable for goods vehicles to pass along Knolls View at all hours of the day and night. Therefore it is not accepted that limitations cannot be imposed on future tenants and asks that this be pursued urgently.

Any permission should be conditioned to:

- limit operating times to those in application (0730 - 1800h M-F/1300h Sat)
- restricting goods vehicle access to Stanbridge Road
- landscaping and planting scheme to reduce impact
- subjecting other tenants to same conditions, especially hours and access.

Neighbours Knolls View "Mapsedge" (23/2/11). Supports the application as it would help to enhance the state of the property; indeed replacement of all the buildings would improve the aesthetics.

No negative representations received direct from members of the public.

Consultations/Publicity responses

Archaeologist (18/2/11) An archaeological sensitive area near and within the setting of the Totternhoe Knolls SAM. No objection to demolition of modern structure as it would not have a major impact on the significance of the heritage asset that the lime works represents. No objection to new building which is at the bottom of the hill.

Environmental Health Officer (11/2/11) Building would be screened from all but one dwelling by kiln wall. No objection but requests noise condition, in view of general B2 uses.

Determining Issues

The main considerations of the application are;

1. Existing uses in plant area
2. Green Belt and the existence of very special circumstances
3. Parish Council comments

Considerations

1. Existing uses in plant area.

Since the land was sold following the closure of the hydration plant it has been established at appeal that the lawful use of the site is effectively B2 (an industrial process which does not fall within the 'lesser' class B1 industry). The current applicant confirmed that his use of part of the site was for the repair and adaption of vehicles for onward sale. In the Use Classes Order an 'industrial process' includes "the altering, repairing, maintaining...adapting for sale...of any article", which is what would take place by this company. Furthermore, by the same Order, planning permission would not be required to change between different activities provided they all fall within the definition of B2. There is, however, provision within the General Permitted Development Order (GPDO) for B2 buildings to be used for B1 purposes, without a limit to their size¹.

Newton Transport similarly repair vehicles and thus fall within the B2 class. (The activity in the carbonate shed is also considered to be within the B2 class.)

Thus, in the plant yard, about 475m² (18% of the total floorspace but about 75% of the generally usable floorspace) is in use by these 2 companies.

¹ Under the GPDO permitted development is also available for certain works such as extension or alteration. There are limitations but these relate to the 'curtilage of the premises' and the

'original building' which are difficult to determine without occupiers in so much of the floorspace. It seems possible that new buildings (no more than 100m² each) or extensions could add up to +25% of the original floorspace.

2. Green Belt and the existence of very special circumstances.

The plant yard is within the South Bedfordshire Green Belt. Within Green Belts the general policies controlling development in the countryside apply with equal force but there is, in addition, a general presumption against inappropriate development within them. Inappropriate development is by definition harmful to the Green Belt and it is for the applicant to demonstrate that very special circumstances exist sufficient to set aside harm by reason of inappropriateness and any other harm. PPG2 *Green Belts* also makes plain that the construction of a new building inside a Green Belt is inappropriate unless it is for clearly defined purposes. The instant proposal is not within the range of defined appropriate uses, neither can it be considered as the 're-use' of a building. Finally, the amenity of a Green Belt and its objectives can be harmed by proposals which might be visually detrimental by reason of their siting, materials or design. The purposes of including land in Green Belts include assisting in safeguarding the countryside from encroachment.

At the appeal into the 40 dwellings the inspector included among the main issues the sustainability of the location, and character and appearance of the area. She concluded that the site was not in a sustainable location, being distant from facilities and on a bus route of limited usefulness. Against this she noted that the fall-back position was B2. Furthermore, the original buildings, while not attractive, had nonetheless become an established part of the character of the rural landscape and acted as a historic reminder of the chalk quarrying that took place in the past, plainly visible from the adjoining public rights of way.

The applicant states that the proposal would not offend against the purposes of Green Belts and claims that the following are 'very special circumstances': the replacement building would add to Green Belt openness by reason of its smaller size; would be more visually attractive; would lead to lower CO₂ emissions by reason of reduced size and higher thermal standards; would be in line with PPS4. These are now addressed.

Appearance The present building is clearly visible in winter through the relatively thin boundary hedgerow to the bridleway to the north-east, a well used path in a popular recreational area. The nissen building in its setting of the Brockham Kiln and the derelict tall remaining hydration plant building has not been engulfed in open vehicle parking which characterises the plant yard further north and very much reflects the inspector's identified historic character of its previous use. This context would, in her perception, reduce any offence caused by such a building in the countryside. In contrast, the proposal has a clean-lined modern design and would 'lose' that historical connection with the site. The applicant has reduced the size of the building to 60% of the present floorspace and with the provision of a new retaining wall opposite the building, proposes to increase the adjacent bank to take landscaping. This would reduce the visual prominence of the structure, as would careful consideration of the eventual colour of cladding. The offer to plant up a length of weak boundary hedgerow further down the yard would also be most beneficial and could be justifiably linked to this proposal as reducing the net additional external impact of the yard as a whole. In our opinion the strengthening of the lower hedgerow would be a net benefit.

Sustainability The building would be to a higher thermal standard but this is compared with a structure that was never intended to accommodate people or be heated. The fall-back position would unlikely be a more inefficient conversion, but a semi-open shed. The new building would attract more staff than the present building, which would need to travel to this relatively remote location - mostly by car notwithstanding local walking and cycling links. Although having a B2 user, this plant yard would not rate high in the scale of employment locations which it is intended to serve future demand. This would not contribute to the existence of vscs.

Other factors The applicant is prepared to accept a condition limiting hours of use between 0730 and 1800h (and no working on Saturday afternoons and Sundays/PHs). This is a small gain as the present building could, as with the rest of the yard, be used 24/7. In practice it is unnecessary to prevent use of the building outside these hours because factory noise can be controlled by another condition and private cars have negligible noise impact on dwellings in Knolls View. However, the far more significant impact of lorries outside these hours would be covered under the proposed condition. Furthermore, a modern industrial building such as is proposed is more likely to be the base of a company which works more 'sociable' hours than the nissen building which is more likely to appeal to open storage or transport uses. Indeed, buildings such as is proposed typically rely less on large servicing vehicles. The applicant has also agreed, through an informative, to review 'out of hours' servicing of his present business, to cause less noise in the evenings and night, and to 'do all he can' to route vehicles related to his own business away from Castle Hill Road. While this is plainly unenforceable, it would be formally recorded on the decision notice, and makes the applicant aware of his responsibility towards his neighbours.

PPS4: Planning for sustainable economic growth The applicant claims that a new building would be more cost-effective than refurbishment. PPS4 advocates a positive stance by planning authorities towards applications for economic development, and indeed the proposal meets a number of criteria. The March 2011 Budget further emphasises the Government's commitment to encouraging sustainable businesses.

On balance the proposal offers net benefits viz. the improved landscaping of the lower yard, control of lorries from the proposed building, an acknowledgement of the applicant's 'responsibilities' to the local community, and an employment facility among the rural community. Notwithstanding the unsustainable location, opportunities for new jobs (especially in the rural area) are significant in present times. Eventually the applicant would look to rolling out this redevelopment across the yard with tangible benefits to local residents through substantial floorspace reduction, potential removal of permitted development rights to extend, and greater control of servicing hours. This would make the 'vscs' more substantial and we can support the proposal in this light.

3. Parish Council comments

The Parish Council and Ward Member Cllr Mustoe were involved closely in this application as it was useful to determine the views of the community on the TLS site at this time of change. Amendments have been generally well received. Although the agreement to review the applicant's traffic using local roads at

unsociable hours would be unenforceable, it would nevertheless impress on the site owner the 'responsibilities' he has with the community. He has stopped short of undertaking to restrict hours of use for future tenants of existing floorspace, but in planning law terms it would be unreasonable to require him not to do something he is entitled to do within Class B2. On the other hand to remove permitted development rights to extend the new building would compensate for the upgrading of floorspace in the Green Belt.

Our satisfaction with the countryside impact has been considered above and it would be impracticable to restrict employment to local people. We consider that the applicant has responded fairly to the issues raised by the application.

Recommendation

That Planning Permission be GRANTED subject to the following:

- 1 The development shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 **Before development begins, a landscaping scheme to include earth mounding, retaining wall(s), soil quality assessment, new planting and hedgerow strengthening based on the areas shown hatched on drawing 1098/10/9A shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained until satisfactorily established.**

**Reason: To ensure a satisfactory standard of landscaping to compensate for the visual impact of the proposed building.
(Policies: ENV3, ENV7 RSS; BE8 SBLPR).**

- 3 **Notwithstanding details submitted with this application on drawing 1098/10/7A, before building operations commence details of the brickwork and colour of the cladding and roofing shall be submitted to and approved in writing by the Local Planning Authority, and the building shall only be constructed in accordance therewith.**

Reason: To ensure satisfactory integration of the building into the Green Belt and this countryside location.
(Policies: ENV7 RSS; BE8 SBLPR).

- 4 Notwithstanding the provisions of Part 7 Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as

amended, or any further amendment thereto, (Industrial and Warehouse 'Permitted development'), no extensions or external alterations to the building hereby approved, including fitting of rooflights, shall take place except with express consent of the Local Planning Authority.

Reason: To control the amount of replacement floorspace in the Green Belt and to safeguard the appearance of the Green Belt and countryside from prominent external treatments and the visual impact of lighting behind rooflights.

(Policies: ENV7 RSS; BE8 SBLPR).

- 5 All plant, machinery and equipment installed or operated in connection with the proposed development shall be designed to a level which is at least 5dB(A) below the existing LA₉₀ background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise shall be addressed by imposing a further 5dB penalty as per the methodology set out in BS 4142:1997. Noise limits for new plant, either measured or calculated, shall apply to a position 1 metre from the closest affected window of the relevant noise sensitive property.

Reason: To safeguard the essential amenities of local noise-sensitive properties.

(Policies: ENV7 RSS; BE8 SBLPR).

- 6 No lorry shall enter or leave the site outside the hours of 0730 to 1800 on any day Mondays to Fridays, outside the hours of 0730 and 1300 on Saturdays nor at any time on Sundays, Bank or Public Holidays, save as may be agreed in writing by the Local Planning Authority.

Reason: To safeguard the essential amenities of local noise-sensitive properties from servicing traffic.

(Policies: ENV7 RSS; BE8 SBLPR).

- 7 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, drawings numbers CBC/001, CBC/002, CBC/003, 1098/10/7A, 1098/10/9A.

Reason: For the avoidance of doubt.

Reasons for Granting

This building can lawfully be used for B2 purposes (general industry). The presumption against inappropriate development in the Green Belt, through the erection of an 'inappropriate' building, even for B2 purposes, and its impact on visual amenity, can be set aside in this case by a 'very special circumstances'. These comprise a combination of factors namely the improvement of the north-east boundary landscaping, increase in openness through a reduction in floorspace, limitations on permitted development and servicing hours. These would also set a pattern for future redevelopment towards reducing overall floorspace and bringing vehicle movements over more of the site under control, thus improving the amenities of residents of Knolls View. The Parish Council has been engaged in this application.

Notes to Applicant

1. Please note that the unnumbered drawings submitted with this application (location plans and existing elevations) have been given unique numbers by the Local Planning Authority. The number can be sourced by examining the plans on the View a Planning Application pages of the Council's website www.centralbedfordshire.gov.uk.
2. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the reason for any condition above relates to the Policies as referred to in the Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire Local Plan Review (SBLPR).
3. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the Regional Spatial Strategy for the East of England (the East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy), Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review and material considerations do not indicate otherwise. The policies which refer are as follows:

East of England Plan (May 2008)

T8 Local roads

T9 Walking, cycling and other non motorised transport

T14 Parking

ENV1 Green infrastructure

ENV3 Biodiversity and earth heritage

ENV7 Quality in the built environment

South Bedfordshire Local Plan Review

BE8 Design and environmental considerations

T10 Parking - new developments

E2 Development - outside main employment areas

4. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
5. In order that reasonable regard may be had to the amenity of local residents, in view of noise from heavy vehicles using local roads in the evenings and at night, it is strongly requested that the following code of practice be adopted by the applicant:

JGE Commercials, or any person or company succeeding as owner of its land at Knolls View, will use its best endeavours to ensure by management and training of employees that its commercial vehicles will not seek to access or leave the Knolls View premises outside the period from 0700 to 1800 hours in any day (and preferably not at all on Sundays and Public

Holidays), and that its commercial vehicles will not use Castle Hill Road but use other roads to access Knolls View. Furthermore, JGE Commercials, or any person or company succeeding as owner of its land at Knolls View, will seek to encourage its future tenants at Knolls View to follow a similar pattern.

DECISION

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