

Item No. 16

APPLICATION NUMBER	CB/12/03047/VOC
LOCATION	Beeston Timber Yard, 64 High Road, Beeston, Sandy, SG19 1PB
PROPOSAL	Variation of Condition No 5 on Permission CB/11/01546/FULL dated 15/09/2011 to be varied to: No goods, waste or other materials shall be stored, stacked or deposited outside the building(s) to a height exceeding 5 metres, unless otherwise agreed in writing by the local planning authority.
PARISH	Sandy
WARD	Sandy
WARD COUNCILLORS	Cllrs Aldis, Maudlin & Sheppard
CASE OFFICER	Amy Lack
DATE REGISTERED	23 August 2012
EXPIRY DATE	18 October 2012
APPLICANT	
AGENT	DLP Planning Ltd
REASON FOR COMMITTEE TO DETERMINE	This application accompanies other applications at this site which have been called to Committee by ward Cllrs.
RECOMMENDED DECISION	Variation of Condition - Granted

Site Location:

The application site, 64 High Road, Beeston, was formerly occupied by Thelsid Nursery. The site comprises: an unoccupied bungalow dwelling to the northern corner of the site, adjacent to the northbound A1 trunk road; a detached Atcost building to the southwest of the site; and a concrete access route through the site.

Access to the site can be made directly from the A1 or via a single width track from Orchard Close. This track also serves as footpath No.40.

The site does not fall within a Conservation area. It does not fall within a development envelope and as such lies wholly within the open countryside as defined by the proposals map.

This application has been submitted in conjunction with three other Section 73 applications which seek to revise conditions on existing planning approvals that relate to this application site. Planning references: CB/12/03000/VOC; CB/12/03045/VOC; and CB/12/03046/VOC.

The Application:

This Section 73 application seeks to vary condition 5 attached to the planning permission which was granted under application reference CB/11/01546/FULL for the change of use from a nursery/horticultural use to a commercial timber yard (sui generis).

The wording of that condition is as follows:

No goods, waste or other materials shall be stored, stacked or deposited outside the building(s) to a height exceeding 4 metres, unless otherwise agreed in writing by the local planning authority.

The reason for the imposition of this condition was:

To safeguard the amenities of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy and Development Management Policies.

The applicant wishes to vary this condition to allow the storage of goods, waste and materials externally on the site by an additional metre, up to a height of 5 metres.

The existing permission was granted by the Development Management Committee and approved on 15 September 2011. This current application before Members must also re-consider the change of use as proposed by the original planning application to take into consideration any changes in planning policy or guidance and whether the site context has changed. These material considerations will be discussed within the main body of the report below under the heading 'Considerations'.

National Guidance

National Planning Policy Framework (2012)

Section 3 - Supporting a prosperous rural community (paragraph 28)

Section 6 - Building a Strong, competitive economy (paragraph 18)

Section 7 - Requiring good design (paragraph 56)

Circular 11/95 - The use of Conditions in Planning Permissions

Regional Spatial Strategy East of England Plan (2008)

SS1: Achieving Sustainable Development

ENV7: Quality in the Built Environment

Core Strategy and Development Management Policies (2009)

CS14 High Quality Development

DM3 High Quality Development

DM4 Development within and Beyond Settlement Envelopes

DM12 Horticultural and Redundant Agricultural Site

Supplementary Planning Guidance

Design in Central Bedfordshire; A guide for Development (2010)

Planning History

CB/12/03046/VOC	Removal of Condition No.4 on Permission CB/12/01201/FULL Dated 02/08/2012 in relation to Highway Access from the A1. Pending consideration.
CB/12/03045/VOC	Variation of Condition No. 4 on Application No. CB/11/03441/VOC dated 08/06/2012 From: There shall be no machinery used at the site, outside the hours of 0730 hours to 1800 hours Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays and there shall be no goods moved within the site or deliveries received or despatched outside the hours of 0600 hours to 1800 hours Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays. To: There shall be no machinery used at the site outside the hours of 0730 hours to 1800 hours Monday to Friday or outside the hours of 0800 hours to 1600 hours on Saturdays, and at no time on Sundays, Bank or Public Holidays and there shall be no goods moved within the site or deliveries received or despatched outside the hours of 0600 to 1900 hours Monday to Friday or outside the hours of 0800 hours to 1600 hours on Saturdays and at no time on Sundays, Bank or Public Holidays. Pending consideration.
CB/12/03000/VOC	Variation of condition 4 (hours of operation and delivery) of planning approval reference CB/11/03441/VOC to allow for the operation of machinery and deliveries on Saturday between 0800 hours to 1600 Hours. Pending consideration.
CB/12/00483/FULL	Re-cladding and minor alterations to elevations of existing building. Granted.
CB/12/01201/FULL CB/11/03441/VOC	Erection of two warehouses (Use Class B8). Granted Variation of Condition: Change condition 4 (hours of vehicular movement) of Planning Permission CB/11/01546/FULL. Refused. Allowed at Appeal.
CB/11/01546/FULL	Change of use from nursery/horticultural site to commercial timber yard (Sui Generis). Granted.

Representations: (Parish & Neighbours)

Sandy Town Council	No comment to make.
Neighbours	No third party representations received.

Publicity

Site notice	Posted on a telegraph pole at the end of the concrete access track/footpath 40 - 04.09.12
Press advert	07.09.2012

Consultations/Publicity responses

Highway Agency	No objection. The applicant is currently engaged with the Highway Agency in delivering the highway improvements that have been conditioned.
Archaeology	No objection. The applicant has already supplied an archaeological desk-based assessment for this site and is working to fulfil the requirements of condition 5 (Archaeology) of planning consent CB/12/01201/FULL.
Public protection	No comment.
Highway authority	No comment.
Rights of Way	No comment.

Determining Issues

This application seeks to vary condition 5 attached to the change of use of the site approved by planning application reference CB/11/01546/FULL. The proposed development is identical and therefore the assessment of the application turns to the principle of varying the condition, whether or not there have been any changes in planning policy or guidance and whether the site context has changed.

Changes to Planning Policy and Guidance

The following key changes have been made to Planning Policy and Guidance since the determination of the original application:

- National Planning Policy Framework (2012)
- Car parking standards (2012)

Review of the recently adopted Central Government guidance and this Council's guidance do not introduce any significantly different planning considerations and do not alter the policy background against which the proposal needs to be assessed.

Notwithstanding this the National Planning Policy Framework (NPPF) does place an emphasis upon the importance of local planning authorities removing barriers to businesses. Section 1 - Building a strong, competitive economy, paragraph 19 states that the Government is committed to ensuring that the planning system does everything it can to support economic growth. Planning should operate to encourage and not act

as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system and not impede it.

Changes in circumstances on site

Since the grant of planning reference CB/11/01564/FULL a S73 application to vary the hours of operation (condition 4 of this permission) was refused under planning reference CB/11/03341/VOC by the Development Management Committee on 9 December 2011. This refusal was allowed at appeal by the Inspector who awarded costs to the appellants.

Further to this an application for the erection of two warehouses under planning reference CB/12/01201/FULL has been approved on the site.

Neither material change in circumstance is considered to jeopardise the acceptability of changing the use of the site to a commercial timber yard. Accordingly, from the consultation responses received, an inspection of the site and surroundings the main considerations of the application are;

1. Principle of varying condition 5
2. Principle of development
3. Impact upon the visual amenity of the surrounding area
4. Impact of the proposal on surrounding residential amenity
5. Highway Safety
6. Public Protection
7. Rights of way
8. Other issues
9. Conclusion

Considerations

1. Principle of varying condition 5

The application proposes the variation of condition 5. The applicant would like to be able to store, stack or deposit goods, waste or other materials outside of the buildings on the site up to a height of 5 metres. They consider this reasonable in the context of the unrestricted height which the horticultural/nursery use enjoyed, the nature of the site and the height of the buildings which have historically existed on the site and benefit from approval on the site.

Condition 5 was imposed to protect the amenity of neighbouring properties. Mindful that the use of the site as a nursery benefits from unrestricted storage heights and the proposal to increase the restriction of 4 metres to 5 metres for the timber yard use will result in a height consistent with the eaves height of the two warehouses, the increase in height by one metre is unlikely to result in any significant adverse impact upon nearby properties. The boundary of the closest neighbouring residential property is approximately 60 metres away, so in terms of an overbearing presence or loss of light and outlook occupiers of this property are unlikely to experience any adverse impact. As such, the principle to vary the condition is considered acceptable.

It is suggested the revised condition is re-worded to read:

No goods, waste or other materials shall be stored, stacked or deposited outside the building(s) to a height exceeding 5 metres, unless otherwise agreed in writing by the local planning authority.

The reason for the imposition of the above condition is:

To safeguard the amenities of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy and Development Management Policies.

The above condition will replace condition 5 of that imposed to planning application reference CB/11/01546/FULL. All other conditions imposed therein shall remain in perpetuity.

2. Principle of development

The principle of the development to change the use of the application site from a nursery/horticultural site to a commercial timber yard (sui generis) has been accepted by approval of extant planning permission CB/11/01546/FULL. There have been no changes in circumstances or site context which have altered this, nor any change to the policy and guidance background against which the proposal needs to be assessed. The site is located adjacent to the built form of Beeston, which in itself does not benefit from any defined settlement envelope therefore is wholly within the open countryside. Policy DM12 of the Central Bedfordshire Adopted Core Strategy and Development Management Policies (2009) still applies and deals with the re-use of redundant horticultural sites.

This policy states that proposals for commercial development on horticultural sites in the countryside will be approved if they are considered acceptable in terms of their:

- Scale, layout and design in relation to their setting;
- Assimilation into the rural setting and impact on the surrounding countryside;
- Relationship with the road network and neighbouring rural settlements;
- Potential relationship on existing local retail facilities; and
- Provision of suitable vehicular and pedestrian access arrangements.

The preamble to the policy states:

'... it is considered that the change of use of horticultural sites ... to similar small-scale and low impact commercial uses may be appropriate; particularly in the context of the Core Strategy where emphasis has been placed on creating additional employment opportunities across the district.'

The criteria set out above are considered further within this report; however the change of use to commercial is considered acceptable in principle.

3. Impact upon the visual amenity of the surrounding area

The variation of the condition to allow for the storage of materials a metre higher than is currently permitted for the timber yard use will not have any significant adverse impact upon the visual amenity of the surrounding area. This is equivalent to the eaves height of the two warehouse buildings approved by planning application reference CB/12/01201/FULL. As such, any piles of stacked material is unlikely to have a dominance or permanence in their appearance; are likely to be read against the warehouse buildings from most views surrounding the site; and are in keeping with the character of the approved timber yard use.

For these reasons the proposal to vary condition 5 is unlikely to have any undue impact upon the visual amenity of the surrounding area and is therefore in accordance with Policy DM3 of the Core Strategy Development Management Policies (2009) and Central Government guidance contained within the National Planning Policy Framework (2012).

The proposed layout of the site remains unchanged. The boundary of the closest neighbouring residential property is approximately 60 metres away and given its siting immediately adjacent to the A1 trunk road, the character of the use in this location is not considered to be at odds with the appearance of the rural area.

When the change of use of the site was originally considered, a number of third party representations raised concern with respect to increased traffic, including heavy vehicles using Footpath 40 and Orchard Road when exiting the site and the impact this would have on the character and amenity of The Green. It is acknowledged that the number of traffic movements on these roads are likely to increase with the new use and there will be a balance therefore between the site developing economically and the potential harm this may have on the character and appearance of the surrounding area.

Documentation was submitted with the original application which remains pertinent to this proposal, outlining the use of this access with the former use of the site for a number of heavy commercial transport vehicles associated with the original nursery/horticultural use of the site. Presently, there is a consent on the site for 5 vehicles, of which one is a 44 tonne articulated lorry and thus Footpath 40 and Orchard Road has historically been used by heavy vehicles for the movement of goods. Although the number of traffic movements on these roads is likely to increase by changing the use of the site, the agent has advised that HGV movements for the commercial timber use would likely be 2-3 per week with car movements of staff and trade persons more daily. This is not considered to be a significant amount of heavy traffic to detract from the character and appearance of The Green to an unacceptable degree.

The proposed use would not result in an unacceptable impact on the surrounding area to the detriment of its character or appearance. The proposal is therefore considered to be in accordance with Policies DM3 and DM12 of the Core Strategy and Development Management Policies (2009)

4. Impact of the proposal on surrounding residential amenity

The variation of condition 5 to increase the height of stacking on site will not have any significant impact upon the residential amenity of neighbouring occupiers different from the current restricted height of 4 metres.

With respect to the consideration of the change of use because there have been no material changes surrounding the site nor any change to the policy and guidance background against which the proposal needs to be assessed the proposal remains acceptable. The physical separation of the site from the nearest residential property, means that there will not be any significant impact on their residential amenity.

No. 43 Orchard Road and the property known as Coslodge are adjacent to the access road to the rear of the site. This is a single tarmac road, which serves access to the site and is footpath no. 40. It also appears to serve access to land beyond and behind the application site. The proposed use of the site indicates that staff would use this route as access in and out of the site together with the timber deliveries exiting this direction only, accessing the site from the A1 Footpath 40 and Orchard Road have historically been used by heavy vehicles for the movement of goods in relation to the former nursery/horticulture use of the site. It is acknowledged that the number of traffic movements on these roads is likely to increase with the new use, although as noted previously, the HGV movements for the commercial timber use would likely be 2-3 per week with car movements of staff and trade persons on a more daily basis. It is therefore considered that the proposed use would not result in any additional negative impact upon the residential amenity of neighbouring properties which would result in a greater impact than that which could occur by use as a nursery.

5. Highway Safety

The Highways Team have raised no objection to this application to vary condition 5 of planning reference CB/11/01546/FULL. Given that there have not been any fundamental changes to the policy and guidance background against which the proposal needs to be assessed and the subsequent applications which have been approved at the application site do not materially alter arrangements that would impact upon highway safety the change of use of the site remains acceptable.

This is subject to the imposition of a condition (condition 2) to ensure that the scheme for signage within the site which has been approved by the submission of details by the applicant to satisfy condition 2 since the grant of the original planning permission is implemented. Implemented as agreed the signage scheme will serve alert drivers leaving the site that they will be driving on Footpath 40 and that the speed limit is 20mph.

It should be noted that consultation of the Highways Agency when considering the extant permission for the change of use supported the use of Footpath 40 and Orchard Road for traffic leaving the site rather than using the A1, as the safest option in highway safety terms.

6. Public protection

No objection has been raised to the increased height of the storage of materials and the like on site to 5 metres. Consistent with the extant permission for the change of use of the site, the approval of this Section 73 application should be subject to the imposition of a condition as recommended by the Public Protection Team who raised concern with respect to noise from the operation. Accordingly a condition to limit the noise levels to 5dBA below the existing background level for any plant, machinery or equipment, or 10dBA if there is a tonal/distinctive quality, at a point one metre away from the nearest residential dwelling is suggested (condition 3). A further condition to restrict use of the premises to between 0730 hours and 1800 hours, Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays should also be attached (condition 4) although the exact hours may need to be changed depending on the outcome of other applications on this agenda.

7. Rights of way

The Rights of Way Officer raises no objection to the variation of this condition. In considering the change of use of the site their original consultation response raised no objections but they commented on the shared access to Beeston Green and whether any traffic calming measures could be considered.

They also suggested a grass verge be created to allow pedestrians to draw off the land when vehicles are passing. Given that the lane and verges do not fall within the application site and do not appear to be under the applicants ownership, the Council cannot attach conditions relating to these issues.

However, details of a scheme for signage (as discussed above) have been submitted and approved in conjunction with condition 2 imposed to extant permission CB/11/01546/FULL. It is recommended that consistent with this requirement of the original permission, a condition be imposed to the approval of this current application to require implementation of the approved signage scheme.

8. Other Issues

Depending on the outcome of the other applications for this site the other conditions listed at the end of this report may need to be revised to reflect the approvals .

The Encyclopedia of Planning Law and Practice advises that for Section 73 applications local planning authorities are required to consider only the question of the conditions subject to which planning permission should be granted, but that this does not prevent them from looking at the wider consideration affecting the grant of permission. Case law dictates that the authority may be unrestricted in its consideration of the full planning merits of the application, and the result of a successful application under Section 73 is a wholly new permission. Local planning authorities are empowered to grant a Section 73 application subject to conditions differing from those which the previous planning permission was granted. As such, there is a need to revise the planning conditions which were imposed previously to reflect any changes in circumstance.

In this respect condition 6 of the original approval sought the provision of a new improved access from the A1 as part of the development and the permission for the timber yard use required full details of the improved access to be submitted and approved by the Council prior to the commencement of the development. The applicant has submitted these details and they have been approved following consultation with the Highways Agency. As such, it is necessary to revise the condition to reflect this progress and to require the implementation of the approved scheme. In accordance with the applicants intentions as stated in their original application.

The applicant is progressing a S278 Agreement with the Highway Agency, including preparing the technical matters and highways drawings, drainage drawings and the like, but found this a lengthy process and one which is subject to external delays and unforeseen issues.

Mindful of Central Government advice contained within the National Planning Policy Framework (2012) which places an emphasis upon the importance of local planning authorities removing barriers to businesses. It requires the planning system to do everything it can to support economic growth and should operate to encourage, not act as an impediment to sustainable growth. Accordingly, significant weight must be placed on the need to support the timber yard business on this site and the economic growth it will contribute, not impede it. At the same time the Council must have regard to highway safety. It is therefore considered reasonable and appropriate to allow the use to commence on site with the requirement to provide the new access from the A1 within 12 months from the date of the approval.

This arrangement has the benefit of allowing the applicant to operate their business from the site while at the same time secure the new A1 access which in the longer term will benefit the local residents by reducing HGV movements associated with the application site. It is accepted that initially allowing the use to commence prior to completion of the improvements to the access will result in additional traffic in Orchard Road, The Green and along footpath 40. However, the appeal Inspector did not consider the use of the rear access or the impact on nearby dwellings to be unacceptable. He considered vehicular movements to and from the site, and noted this road exists as a through route and is open to all traffic at all times. Further to this the eastern end of this road is already affected by the persistent noise of heavy traffic travelling along the A1. The Inspector also noted that while traffic movement would generate some noise and it is unlikely to be greater than could have occurred under the previous unrestricted use. He also remarked that the noise of a goods vehicle moving slowly is not a sudden or intrusive noise.

Accordingly it is recommended that condition 6 be replaced with the following condition:

6. Within 12 Months from the date of this approval the access improvements from the A1 as detailed on drawing numbers 101 P1; 100 B; and the Stage 2 Road Safety Audit reference 11119-JJF- S2RSA-B (February 2012)

and approved by the local planning authority on 06.06.2012 in connection with planning application reference CB/11/01546/FULL shall be fully completed. Thereafter the new access shall be used as the sole access for all deliveries to the application site.

9. Conclusion

It is recommended that the variation of condition 5 of planning reference CB/11/01546/FULL be approved, to allow external materials to be stored, stacked or deposited up to a height of 5 metres. This additional metre in height will not have any significant adverse impact upon the character and appearance of the site or surrounding area, nor the amenity of neighbouring properties, mindful that the nursery use benefits from an unrestricted external storage height; the large green house buildings which historically stood on this site; and the two warehouse buildings approved under planning reference CB/12/01201/FULL.

The proposed development is identical to that considered by extant planning permission CB/11/01546/FULL and the assessment of the application turns to whether or not there have been any changes in planning policy or guidance and whether the site context has changed. Review of the recently adopted Central Government guidance and this Council's guidance do not introduce any significantly different planning considerations and do not alter the policy background against which the proposal needs to be assessed. Mindful of the approval of subsequent applications on the site, there have been no material changes in circumstance considered to jeopardise the acceptability of changing the use of the site to a commercial timber yard.

All other conditions as imposed to the original permission remain necessary to make the development acceptable. As such, the new permission for this development which will be granted by virtue of the approval of this Section 73 application, is subject to those conditions imposed to CB/11/01546/FULL, with the exception of condition 2 and condition 6 of this original permission for which the local planning authority have already approved details and shall be re-worded to reflect this position.

It is recommended this application be approved.

Recommendation

That the variation of condition 5 be granted subject to the following conditions:

- 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 Prior to the first use of the application site as a commercial timber yard the advanced signing scheme as detailed on drawing numbers BE1316T-001-02 and approved by the local planning authority on 16.04.2012 in connection with planning application reference CB/11/01546/FULL shall be fully implemented in accordance with the approved details.

Reason: In the interest of highway safety and for the avoidance of doubt in accordance with Policy DM3 of the Core Strategy and Development Management Policies (2009).

- 3 Noise resulting from the use of any plant, machinery or equipment shall not exceed a level of 5dBA below the existing background level (or 10bDA if there is a tonal distinctive quality) when measured or calculated according to BS4142:1997, at a point one metre external to the nearest noise sensitive building.

Reason: to preserve the residential amenity of neighbouring properties in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009) and Central Government guidance contained within the National Planning Policy Framework (2012).

- 4 There shall be no machinery used at the site, outside the hours of 0730 hours Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays and there shall be no goods moved within the site or deliveries received or despatched outside the hours of 0600 hours to 1800 hours Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays.

Reason: To preserve the residential amenity of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy Development Management Policies.

- 5 No goods, waste or other materials shall be stored, stacked or deposited outside the building(s) to a height exceeding 5 metres, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM3 of the Core Strategy and Development Management Policies (2009).

- 6 Within 12 months from the date of this approval the access improvements from the A1 as detailed on drawing numbers 101 P1; 100 B; and the Stage 2 Road Safety Audit reference 11119-JJF- S2RSA-B (February 2012) and approved by the local planning authority on 06.06.2012 in connection with planning application reference CB/11/01546/FULL shall be fully completed. Thereafter the new access shall be used as the sole access for all deliveries to the application site.

Reason: To ensure that the A1 will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980; for the safety of traffic on that road; and to safeguard the residential amenity of nearby occupiers.

- 7 This permission is solely for the change of use of the land and does not grant permission for any buildings indicated on the submitted plans.

Reason: For the avoidance of doubt

- 8 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers [BE1316; 11/BGT/01, 11/BGT/02, JKK6849 Rev B, Design and Access Statement - submitted 21.04.11.].

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed change of use from a horticultural/nursery use to a commercial timber yard will not have any significant adverse impact upon the character of the surrounding area, the residential amenity currently enjoyed by nearby occupiers, highway safety or archaeological heritage assets.

The variation condition 5 of planning application reference CB/11/01546/FULL to increase the height to which the storage of goods, waste and materials externally on the site may be stored by an additional metre, to a total of 5 metres in height would not have a significant adverse impact upon the character of the surrounding area nor the residential amenity currently enjoyed by nearby occupiers.

For the above reasons the variation of condition 5 of planning application reference CB/11/01546/FULL is acceptable and the change of use from a horticultural/nursery use to a commercial timber yard remains compliant with policies CS14; DM3; DM4 and DM12 of the Core Strategy and Management Policies (2009) and Central Government guidance contained within the National Planning Policy Framework (2012) in particular paragraph 19 with respect to supporting economic growth and paragraph 56 with respect to good design.