

3/09/0910/FP – Hardstanding for agricultural purposes and associated bunding (part retrospective) at land opposite New Barn Cottage, Flint Hall, Hormead Road, Anstey for NHP (UK) Ltd

Date of Receipt: 27.02.09

Type: Full

Parish: ANSTEY

Ward: BRAUGHING

RECOMMENDATION

That subject to the amendment of the current S106 contributions relation to LPA reference 3/08/0425/FP to transfer contributions to the current application planning permission be **GRANTED** subject to the following conditions:-

1. Three year time limit (1T12)
2. No external lighting (2E26)
3. Landscape design proposals (4P12) (insert a, b, c, d, e, i, j, k and l)
4. Landscape works implementation (4P13)
5. Details of earthworks/mounding (4P16)
6. Landscaping maintenance (4P17)

Directives

1. Other legislation
2. Discharge of conditions
3. Relocation of storage tanks.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies GBC1, GBC7, ENV1, ENV2, ENV10 and TR20. The balance of the considerations having regard to those policies and the other material considerations relevant in this case is that permission should be granted.

_____ (091009FP.MP)

1.0 Background

- 1.1 The application site is located a short distance along New Barns Lane to the west of the village of Anstey. New Barns Lane runs between Lincoln Hill via Andersons Lane to Great Hornead. The site location is shown on the attached OS extract.
- 1.2 Members may recall that the Development Control Committee resolved to grant planning permission, subject to a financial contribution of £10000 towards off-site highway works, within the 02 July 2008 Committee Meeting for the construction of a new building for the storage of grain and agricultural machinery within LPA reference 3/08/0425/FP. Officers can advise that, since that decision, the S106 agreement was signed on 07 July 2008, the applicant therefore has full conditional planning permission for a new building within the site.
- 1.3 Since the Decision of that planning application, no conditions have been formally discharged by the Council. However, the applicant has started works on the site which has included earth works and the laying of a concrete slab. Those works are not considered by Officers to constitute permitted development under the relevant sections of the General Permitted Development Order and in effect therefore, the current works on the site do not benefit from planning permission. This planning application seeks to regularise in part those works with other works including manipulation of the current earth bunds and landscaping.
- 1.4 From the various details submitted by the applicant it is understood that the applicant, NHP (UK) Ltd, has purchased a new farm within the vicinity. There is therefore no longer a need for the grain store building. The applicant does however wish for a storage space for the grain during harvest time. This will allow grain and produce to be stored temporarily on the hard standing before being transported off site by lorries for storage outside of Anstey.
- 1.5 The Design and Access Statement outlines that the area of productive land is 342 Ha. Approximately 2050 Tonnes of Winter Wheat and 456 Tonnes of Winter Oilseed Rape will be produced. Such production will result in 33 Tractor and trailer movements and 70 lorry movements. A noise assessment report has been submitted by the applicant in support of the application.
- 1.6 The proposed landscape works involve the manipulation of the existing earth bund, which involves an earth bund adjacent to the road and wrapping around the western end of the hard standing at a contoured height of

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approximately 2-3 metres. To the eastern end of the bund the contouring is less pronounced. Landscaping on the contoured slope around the site and on land on the opposite side of the road to New Barns Cottages is also proposed.

- 1.7 This is being reported to the committee following the earlier proposals which constituted a major development.

2.0 Site History

- 2.1 The only history relevant to the site relates to LPA reference 3/08/0425/FP mentioned in paragraphs 1.2 above.

3.0 Consultation Responses

- 3.1 The Landscape Officer comments that there is no objection to the principle of the development. However the Officer comments that a “less is more” approach is more suitable for this site (in the context of the surrounding open landscape character). The landscape Officer suggests this be in the form of gentler undulating slopes together with trees and grass cover alone for new planting.
- 3.2 County Highways comments that the current application proposes a reduction in the throughput of grain compared with the previous proposals and therefore a reduction in the number of associated vehicle movements. The Highways Officer comments that various photographs of activity at the site have been seen by the County Highways Authority; however, upon a Highways Officers site visit there was no activity within the site. However ‘relatively minor damage’ to the verges along Flinthall Road was noted.
- 3.3 County Highways considers that, subject to the financial contributions linked with the previous permission (3/08/0425/FP), being used in association with this application to mitigate against the highway impact and conditions, the Highways Authority have no overriding reason to object in terms of highway safety.
- 3.4 Initial response from Environmental Health Officers outlined that any grant of permission should include conditions relating to a limit on the use of the site for 2 weeks per year and a limit on the hours of operation between 07:00 – 23:00. It was also indicated that the ‘target level’ being aimed for in the noise assessment report (55dBA) is considered by WHO (World Health Organisation) to be a serious annoyance. Environmental Health recommend that 50dBA is used which is a ‘moderate annoyance’ but will only need to be tolerated for 2 weeks per year.

However planning officers are of the view that restricting the use in the way suggested would be neither reasonable nor enforceable given the agricultural nature of the area and the use that could take place on the site without development. As a result, your Environmental Health officers suggest that any noise issues that may arise would be best dealt with under the Environmental Protection Act 1990 Sec 79 as a statutory nuisance. This would also allow the noise from the operation as a whole to be considered including the field and tracks alongside the hard standing. The use of these could not be controlled by any conditions on this application.

4.0 Town/Parish Council Representations

4.1 Anstey Parish Council comments that they fully understand the needs of modern agriculture and the reasons for this application. However, the Parish Council raises concerns with the impact on neighbour amenity and asks that conditions relating to landscaping and hours of work are added, should the Council be minded to approve the application.

5.0 Other Representations

5.1 The applications have been advertised by way of press notice, site notice and neighbour notification. 9 letters of objection have been received, a summary of the points raised includes:-

- impact on visual amenity/outlook
- increase in lorry movements to the site and within, resulting on detrimental impact to neighbour amenity by reason of noise and general disturbance
- impact on the openness and character of a rural location
- landscaping proposed will not mature for a number of years further increasing the degree of visual impact
- The width, nature and quality of the existing road is poor not suitable for large lorries. This use would cause danger to other road users particularly walkers and cyclists in a rural area that is popular for recreation.

5.2 One letter has been received which urges the Council to approve the application subject to conditions, relating to landscape works, highways works and limitations on traffic movements

6.0 Policy

6.1 Policies of the adopted East Herts Local Plan that are most relevant to the consideration of this application are as follows:

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
GBC7	Agricultural Development
GBC12	Agricultural Lane
TR1	Traffic Reduction in New Developments
TR20	Development Generating Traffic on Rural Roads
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV24	Noise Generating Development

The guidance set out in PPG24, Planning and Noise, is also relevant to this application.

7.0- Considerations

7.1 The main considerations in the determination of this application are as follows:-

- the principle of development
- the appropriateness of the proposals on the landscape
- highways matters
- impact on amenity of neighbouring premises

Principle of development

7.2 The proposals in this application do not include any material change in the use of the land – the agricultural use remains. The principle of development therefore falls inside the scope of Policy GBC3 of the East Herts Local Plan. However, the proposals do result in a change to the visual appearance of the area and enable a more intensive use of the site, albeit agriculturally related and likely only to take place at certain times throughout the year.

Appropriateness of the development on the landscape

7.3 It is recognised that the previous planning application for the grain store building was considered under the requirements of Policy GBC7 of the Local Plan. Since that Policy refers to proposals for new agricultural buildings and this scheme does not propose a building, it is not considered salient to test the proposals under that policy. The Policy considerations revolving around the impact of the development on the landscape therefore rest within Policies ENV1 and ENV2 of the Local Plan. It is nevertheless a

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material consideration of significant weight, in Officers opinion in visual terms, that the Council have granted planning permission for a large building in the same location as the proposed concrete pad.

- 7.4 The proposals within this planning application involve a significant degree of change to the landform of the site. The concrete pad is cut into the land with a retaining wall of some 2m at the north side. The excavated soil is used to form an earth bund around the concrete pad with landscaping on and around it. That earth bund will extend to some 2m in height (subject to finally agreed details). The scale of the site is large. However it is set in the context of a large and open landscape. The fieldscape is large in the area and the changes in landform are generally shallow – typical open, gently rolling countryside of the northern part of the district. The Landscape officer refers to a ‘less is more’ approach here and I agree that hedging and significant landscaping would be incongruous in this location, drawing attention to the development. Gently graded bunding and more minimal planting – grass and trees – can be required by conditions. Given that permission has previously been granted for a large building of some 9.5m in height here, whilst these proposals do undoubtedly have a visual impact, it is considered that the changes in landform and the visual appearance will be acceptable.

Highways matters

- 7.5 The previous planning application 3/08/0425/FP included financial provision of £10,000 towards off-site highway improvements within the surrounding highway network to mitigate against the impact of vehicles associated with the proposed development.
- 7.6 The Country Highways Authority have commented that, subject to that contribution being transferred to the current application and, subject to conditions, that the development will not result in a significantly detrimental impact on highway safety.
- 7.7 Officers are of the opinion that the transfer of the legal agreement requirements would be an appropriate arrangement and that this can be achieved by amending the current S106 agreement, to ensure that the above monies are used in respect of the current application.
- 7.8 In terms of the conditions recommended by County Highways, the Council must consider these against the test in Circular 11/95. Country Highways recommend conditions relating to plans being submitted in respect of the new access, and storage of construction materials. Having regard to the retrospective nature of this application, I do not consider that such conditions are reasonable in this case. A condition is also suggested by

Highways in relation to the tracking of mud and debris from the site. However given the agricultural use of the site, which is not being changed, it is not considered that the conditions is reasonable in this case. Offices are aware of the potential for mud to be tracked onto the highway. However this is a problem in relation to all agricultural land uses and one which should be tackled by highway authority policies and good on site management. It is not appropriate for this authority to seek to control this matter.

- 7.9 Objectors have referred to the potential for conflict between other road users and the vehicles visiting the site. It is indicated that the area is popular with walkers and cyclists. Again that is not unusual across the district and in many areas that walkers and cyclists visit. The use will result in greater activity on the site, some of it quite intensive at harvest times. However it is not considered that the desires of visitors to the countryside should be given greater weight than the agricultural activities that take place there. With the normal cautions that need to be exercised by all road users it is considered that both can co-exist here.

Impact on neighbour amenity

- 7.10 The main considerations in relation to neighbour are the impact of vehicle movements and of the general level of activity within the site.
- 7.11 The noise assessment report submitted essentially advises that, subject to the revised bunding design and form, that the predicted noise levels in a 'worst case hour' will not have a significant adverse impact on the amenity of neighbouring properties. However, this was on the basis of achieving a 55dBA noise level. Environmental health officers considered this would not be appropriate. The WHO identifies 55dBA a 'serious annoyance' level. Instead Environmental Health officers indicated that a 50dBA level should be sought. This was also on the basis that use should also be restricted to 2 weeks per year and between the times of 07.00 – 23.00.
- 7.12 As indicated above, it is considered that conditions of that nature are unreasonable and unenforceable in this case. The applicant has expressed a desire for a greater period of annual operation to be permitted – more than two weeks per year. Given the agricultural operations that take place, and the uncertainties of crops, weather and onward distribution of products two weeks seems entirely unreasonable.
- 7.13 The applicant has suggested that the operating hours of 07.00 to 23.00 would be acceptable, but, again given the nature of modern agricultural operation, I feel that such a condition would be unreasonable. Cropping on

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the adjacent fields could take place without control and it is common place now for agricultural operations to take place throughout the night – certainly at harvest times.

- 7.14 In this case I feel that it is necessary to reach a view that either the proposals are acceptable without control as to their extent – or they are not and should be located elsewhere.
- 7.15 In favour of the proposals are that agricultural operations are proposed in an agricultural area. One would expect such operations to take place here. The use will be limited – certain times of the year and certain operations – and would be largely dormant outside of those times. Some measures can be introduced to reduce the impact of the operation – the proposed bunding and limited planting. These would not reduce the impact to a level that is considered to be acceptable to neighbouring occupiers, but would have some affect in line with the requirements of policy ENV24. Other statutory controls remain if the remaining activity is found to be unacceptable. Guidance in Circular 11/95 is that conditions should not be applied if the matter can be dealt with under other legislation which is the case here.
- 7.16 Against the proposals are the issue that, even with the bunding, the noise assessment report indicates that noise levels can only be reduced to what would still be identified as a serious annoyance. With no controls on use, despite assertions to the contrary, the use of the site may be intensified and used for other agricultural purposes throughout the year.
- 7.17 One nearby resident indicates that noise levels of 65dBA have been recorded from current operations. Reference to the guidance in PPG24 is made. Whilst that claimed level of noise is not disputed, PPG24 does not give firm guidance in this case. It sets noise exposure categories but expressly states that these are to be used when noise sensitive development (eg housing) is proposed near to noise generating development. In this case we are considering the alternative to this – new noise generating located near to noise sensitive.
- 7.18 In such cases the guidance in PPG24 is that proposals need to be considered on the basis of the issues raised and that not all noise conflicts can be reconciled by the planning system.
- 7.19 Your Officer's view on this matter is that the impact of the proposed development is recognised. It will undoubtedly cause have some impact and that this will be intensified at the peak times of use. However, this is an area where agricultural operations take place. Permission has been

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granted previously for the building on the site and, whilst that would have contained noise within it, the noise associated with the coming and going of vehicles had been sanctioned.

7.20 In addition, it is clear that the planning system allows a range of agricultural operations to take place without control. Essentially then the operation proposed here could take place to a large extent without the need for planning permission and therefore without the possibility of the protection, albeit possibly modest, that the bunding will bring.

7.21 Considering all those issues and all others relevant to the proposals, Officers have come to the view that the impact of the development in terms of noise an activity is acceptable in this case and the recommendation is based accordingly.

8.0 Conclusion

8.1 The development involving the construction of a hardstanding and associated bunding involves a agricultural use which is in accordance with rural area policies. The operation development which is the consideration of this application will not result in a significant or harmful impact on the landscape character of the locality and highway safety. In terms of amenity values it is accepted that the proposal will have an appreciable and identifiable impact. However, as set out above, when all the issues are considered, it is felt that the development should be allowed to proceed. For the reasons outlined above it is therefore recommended that planning permission is granted.