

**3/10/0436/FP – Change of use from Business (Class B1) to a car dealership (sui generis) comprising of car showroom, aftersales, offices and minor alterations at Unit 6 Stortford Hall Industrial Park, Dunmow Road, Bishops Stortford CM23 5GZ for Volvo Cars London**

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**Date of Receipt:** 08.03.2010

**Type:** Full – Major

**Parish:** BISHOPS STORTFORD

**Ward:** BISHOPS STORTFORD – ALL SAINTS

**RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:-

1. Three year time limit (1T121)
2. The use of the workshop, as shown on drawing number 102 shall be restricted to the hours 08.00 am to 18.00 pm Monday to Friday and 09.00 am to 13.00 on Saturdays and at no time on a Sunday or Bank Holiday.

**Reason:** In the interests of the amenities of the occupants of nearby properties in accordance with policies ENV24 and ENV25 of the East Herts Local Plan Second Review April 2007.

3. The area of the building designated as 'workshop' in drawing number 102 shall only shall be used for mechanical car repairs and servicing ( that does not involve welding, body repairs or spraying) and for no other purposes including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987. No mechanical car repairs or servicing shall take place anywhere on the site, other than within the building.

**Reason:** To ensure that no alternative use is made of the premises which would be likely to be a nuisance or annoyance to the occupants of adjoining premises, in accordance with policies ENV24 and ENV25 of the East Herts Local Plan Second Review April 2007.

**Directives**

1. Other legislation (01OL1)

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD2, EDE1, BIS9, ENV1, ENV24, ENV25 and PPG24. The balance of the considerations having regard to those policies is that permission should be granted.

\_\_\_\_\_ (043610FP.MP)

**1.0 Background**

- 1.1 This report follows from Officers previous report to the 13<sup>th</sup> May 2010 Committee, which was deferred to allow Officers time to consider a Noise Report, submitted by the applicant during the course of the application. The previous committee report is attached as appendix A, and recommends refusal of the application based upon the impact on neighbour amenity. Paragraphs 7.20 – 7.27 outlines the Councils concerns in respect of this issue.
- 1.2 This Report will focus on the findings within the noise report and the considerations of Officers in respect of the submitted report.

**2.0 Consultation Responses**

- 2.1 Environmental Health have been consulted on the additional information and comment that the raw data submitted in the noise report is in line with the findings in the report and that the conclusions are reasonable. The Environmental Health Officer comments that the predicted noise levels at the nearest residential premises are below the measured background noise. Environmental Health would normally look to achieve predicted levels to be the same as background levels – in this respect the noise predictions are better than would normally be sought by Environmental Health.

**3.0 Town Council Representations**

- 3.1 Bishops Stortford Town Council have been consulted on the additional information, however at the time of writing this report no comments have been received.

#### **4.0 Other Representations**

4.1 Neighbouring properties have been consulted on the additional information relating to noise matters; however, at the time of writing this report no comments have been received.

#### **5.0 Considerations**

5.1 The main issue to be discussed and considered in this report relates to the impact of the proposed development on neighbour amenity.

5.2 The previous Officers Committee Report raised concern with the impact of the development, specifically the proposed workshop element, on the amenity of neighbouring properties. In particular, residential gardens of Stortford Hall Park back onto the site, with a soft landscape buffer adjacent to the boundary. Officers previous considerations outlined that there was a lack of detailed information relating to the specific activities of the proposed use to make an objective assessment of the impact of the workshop element of the development on neighbour amenity. To address those concerns, a noise report has been submitted which has been conducted by a noise consultancy, RBA Acoustics. This report will discuss the findings of that report in a consideration of the impact of the proposed development on neighbour amenity.

5.3 At the outset the noise report outlines that the technical nature of activities within the Volvo workshop are such that there are no noisy activities that would traditionally be associated with garages or mechanics.

5.4 In order to assess the likely impact of the proposed development on the neighbouring properties near to the development site, a noise survey of the existing background noise at the application site has been conducted. The survey results are set out below:-

<b>PERIOD</b>	<b>L<sub>Aeq</sub> (dB)</b>	<b>L<sub>Amax</sub> (dB)</b>	<b>L<sub>A90</sub>(dB)</b>
08:00-09:00	50.2	67.7	46.5
09:00-10:00	50.6	68.9	46.3
10:00-11:00	48.6	63.6	44.6
13:00-14:00	47.8	64.8	45.2
14:00-15:00	49.8	65.3	45.0

- 5.5 The  $L_{Aeq}$  (dB) column shows the average noise levels at the site, whilst  $L_{Amax}$  indicates the maximum noise level during the time period.  $LA90$  shows the background noise levels for the site.
- 5.6 The findings of that survey are set against a survey of an existing Volvo workshop in Chiswick, London. That workshop is slightly larger than that proposed at Bishops Stortford, there being eight car lift bays as apposed to the seven proposed within this application. In that respect, it was considered as a reasonable comparison to that proposed within this application. The survey of the workshop at Chiswick included measurements of specific activities / events within the workshop such as the operation of car lifts and the use of air guns, as well as ambient measurements of 20 minute durations taken at five different locations within the workshop. The report advises that the ambient measurements capture all of the various noise sources within workshop including car movements, car horns, car door, bonnet and boot slams, ventilation and hand tools.
- 5.7 Using the 'worst case scenario' data collected from the Chiswick dealership, the noise report seeks to assess the impact of the proposed use of the application site. Using the data collected from Chiswick. the report predicts the following noise levels at the adjoining residential properties:-

	RATING LEVEL	
	$L_{Aeq}$	$L_{Amax}$
Residential windows	33dB	62dB
Residential Gardens	36dB	64dB

- 5.8 The noise report assesses those predicted noise levels ( $L_{Aeq}$ ) against the background noise levels found at the application site. The assessment is based upon the guidance in BS4142 1997 (Method for rating industrial noise affecting mixed residential and industrial areas) and the World Health Organisation (WHO) – Guidelines for Community Noise.
- 5.9 BS4142 assesses the impact of a noise source in terms of its likelihood to cause complaint. The guidance outlines that the greater the difference between the background noise ( $L_{A90}$ ) and the predicted level, the greater the chance of a noise complaint. The report indicates that a difference of more than 10dB is a positive indication that complaints are likely, and unlikely if the difference is a reduction in 10dB.

- 5.10 In terms of residential windows, there is a reduction of 11.6dB between the lowest existing background noise level and the predicted noise level of the use of the premises. The report outlines that this is a positive indication that complaints are unlikely. In terms of the residential garden space, there is a reduction of 8.6dB which, although not as significant as the windows, is still below marginal significance. The report outlines that, in terms of the requirements of BS4142, the proposed workshop element of the development is unlikely to result in significant noise complaints.
- 5.11 With regards to the WHO assessment, the report makes reference to the acceptable internal noise levels and external noise levels within the garden space – the following is considered to be acceptable by the WHO:- living rooms: 35dB  $L_{Aeq}$  and gardens 50-55dB. The predicted  $L_{Aeq}$  levels outlined in the table above are below those figures recommended by the WHO. The noise report outlines that the predicted levels of noise do not exceed those recommended by the WHO.
- 5.12 With regards to the  $L_{AMax}$  levels, as set out in the above table, the noise report outlines that there are no standards or guidance in respect of the  $L_{AMax}$  level. However, the report compares the survey results of the site as existing with those predicted with the proposed use, and outlines that the predicted  $L_{AMax}$  is at the lower end of the measured range of  $L_{AMax}$  levels and therefore no impact is predicted.
- 5.13 Matters relating to noise assessment are somewhat complex. However, from the information outlined in the Noise Report, it would seem that, based on predicted levels, which are based on an existing Volvo car dealership of a comparable scale to that proposed within this application, and, in comparison with the baseline survey data of the site, the evidence submitted by the applicant and, in comparison with the guidance in government guidance and from the WHO, is that the proposed development is not likely to result in a significant impact on neighbour amenity in terms of noise.
- 5.14 The evidence submitted to the Council would address the concerns raised in the Officers Committee Report, specifically at paragraphs 7.26 – 7.27. On the balance of considerations and, having regard to requirements of policy ENV1, ENV24 and ENV25 and the specific nature of the proposed development, it is considered that, subject to the repair and servicing element of the proposed workshop element remaining within the building and that works take place during usual business hours, the proposal will not result in a significantly harmful impact on the amenity of neighbouring properties, that would warrant the refusal of the application.

**Conditions**

- 5.15 The above comments outlined that it is essentially the specific nature of the proposed development which means that it will not result in a significant impact on neighbour amenity in terms of noise disturbance. It is pertinent therefore to consider whether it is appropriate to limit the use of the building to the proposed user. Circular 11/95 advises that 'a permission personal to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. This condition will scarcely ever be justified in the case of a permission for the erection of a permanent building.' Whilst the particular circumstances of the Volvo use of this unit are therefore considered to be acceptable in planning terms, a personal condition for Volvo is inappropriate and fails the tests of Circular 11/95.
- 5.16 However, having regard to the comments made above, it is considered necessary and reasonable to restrict the specific uses of the proposed workshop use to the building. This would ensure that any future development of the site would be effectively controlled, and the degree of impact on neighbour amenity could be assessed at that stage. Additionally, as the noise report focuses on day time operation of the workshop, it seems reasonable to take the view that during normal business operation hours the proposed use of the unit will not result in significant impact on neighbour amenity. Accordingly, it is therefore necessary to restrict the hours of operation in the condition outlined at the commencement of this report.

**6.0 Conclusion**

- 6.1 Having regards to the Officer Committee Report attached as appendix A, it is considered that the proposed development represents a departure from Employment Area policies set out in the Local Plan. However, the applicant has provided justification relating to a marketing exercise and the nature of the employment generating use proposed on the site which is considered to be in accordance with the general thrust of policy requirements to ensure the provision and retention of employment uses within the District. Additionally, the proposed development is considered to be acceptable in terms of highway safety, parking provision and in terms of the degree of impact on the character and appearance of the building.
- 6.2 The applicant has addressed the concerns raised by Officers with regards to the lack of evidence in relation to the impact on the amenity of neighbouring properties, in terms of the activities associated with the workshop element of the proposed development in terms of noise and general disturbance. The specific natures of the workshop element of the proposed use will not, in Officers opinion result in a significant impact on

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neighbour amenity, subject to the conditions outlined at the commencement of this report being attached.

- 6.3 Having regard to the above considerations and those outlined in Appendix A, Officers therefore recommend that planning permission is granted.