

DEVELOPMENT MANAGEMENT COMMITTEE REPORT – 23 MARCH 2016

Reference Number	3/15/1584/FUL
Proposal	Erection of six B1/B8 units to replace extant planning permission reference 3/06/1994/FP
Location	Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY
Applicant	Hadham Industrial Estates Ltd
Parish	Little Hadham
Ward	Little Hadham

Date of Registration of Application	29 July 2015
Target Determination Date	24 March 2016 (ETA)
Reason for Committee Report	Major application
Case Officer	Martin Plummer

RECOMMENDATION

That planning permission be **REFUSED** for the reasons set out at the end of this report.

1.0 Summary

- 1.1 The application proposes the construction of six new industrial units in the Rural Area which represents an inappropriate form of development in that designated area. The application site is not considered by Officers to be in a sustainable location and the proposal would result in a heavy reliance on motor vehicle traffic, both in terms of commercial vehicles visiting the site and the private motor vehicles of staff employed within the six units.
- 1.2 The development is therefore considered to be an unsustainable form of development that is contrary to both the adopted Local Plan and national planning policy guidance set out in the NPPF. Planning permission should only, therefore, be granted if there are other material considerations that would outweigh the policy presumption against it. The applicant argues that there is a fall-back position in this case that represents a material planning consideration that would outweigh the policy presumption against the development. That is the existence of an earlier planning permission, granted in January 2007, for an extension to an existing building on the site for Class B1/B8 purposes. That permission provided for a similar amount B1/B8 floorspace and was

commenced by the construction of some foundations. This was accepted by the Council in September 2012. The extension could, therefore, lawfully be erected as approved. Officers do not, however, consider that this permission represents a genuine fall-back position for a number of reasons, as set out in the following report, and limited weight has been attached to that position in the overall planning balance.

- 1.3 In addition to the harm that would be caused by the provision of an unsustainable form of development in the Rural Area, Officers are also concerned that the information submitted within the application in regard to the noise impact associated with the development is insufficient to enable the Council to properly assess the impact of the development on the living conditions of neighbouring residential properties.
- 1.4 In terms of the planning benefits of the proposal, Officers acknowledge that it would result in the provision of some rural employment and this does weigh in favour of the application.
- 1.5 Other matters relating to the impact of the development on the character and appearance of the site and its surroundings; on highway safety and as regards surface water drainage, are considered to have a neutral impact in the overall balance of considerations. The positive weight that can be attached to the employment benefits of the proposal does not, however, outweigh the harm associated with the inappropriateness of the development; the unsustainable location of the site for this type of development, and the lack of information regarding noise impacts.

2.0 Site Description

- 2.1 The site is shown on the attached Ordnance Survey extract and comprises an area of hardstanding to the north east of the existing range of commercial buildings associated with the site and the former farm buildings at Church End Farm. The site is located at the end of an access road off the A120 and is accessed in-between existing buildings. The surrounding area is largely agricultural in character, although either side of the access road there are some residential properties and St. Cecilia's Church. Hadham Hall, a collection of residential dwellings and converted listed buildings, is located approximately 200 metres to the east of the application site. Little Hadham is located approximately 1km to the west of the site and the

nearest main settlement of Bishop's Stortford is located 5km to the east.

- 2.2 The existing buildings associated with the industrial estate are of mixed heights and design but are generally utilitarian in their appearance and there are also existing agricultural buildings which are located to the north west of the site which have a similar appearance.
- 2.3 Levels within the application site itself are fairly consistent, although there is a change in levels between the north east / eastern boundary of the site and the adjoining land where there is an earth bank.

3.0 Background to Proposal

- 3.1 The site formerly comprised a range of agricultural buildings which were associated with Church End Farm. Over the passage of time the farming enterprise sought to diversify its business and a planning application was submitted in 1991 under LPA reference 3/91/1755/FP for the change of use of redundant agricultural buildings to a water bottling plant. 'Hadham Water', a company which bottled natural spring water from the site used the building approved in that 1991 permission (3/91/1755/FP) and expanded following the success of the business. The company were successful in being awarded a contract to supply the 2012 Olympic Games with bottled water and a planning application for the expansion of the units for the company was submitted under LPA reference 3/06/1994/FP.
- 3.2 That application was reported to the then Development Control Committee in early 2007 and Officers recommended that planning permission be refused on the basis that the development represented an inappropriate form of development in the Rural Area and would result in harmful increases in traffic movements. The Committee, however, gave significant weight to the special circumstances surrounding the extraction of mineral water at the site, and the importance of a local industry expanding its operations in light of future demand, and it resolved to grant planning permission.
- 3.3 Within that planning permission (reference 3/06/1994/FP) no planning conditions were attached restricting the use of the building to the water bottling company or any other planning conditions restricting vehicle movements or noise. The approved building has a B1/B8 use. That planning permission was commenced by the construction of some foundations, but no further work was ever carried out on it as, it is understood, the business operation of Hadham Water ceased.

- 3.4 A planning application was subsequently submitted for an alternative use of the site (in place of the earlier approved water bottling building and on the same site). That proposal was submitted to the County Council under HCC reference SLUP/CM0935 (LPA reference 3/11/2157/CM) and sought permission for the use of a building thereon (used for B1, B2 and B8) for the demolition and dismantling of motor vehicles. The application was, however, withdrawn and the unauthorised dismantling of motor vehicles ceased its operation.
- 3.5 In 2012 it was also brought to the attention of the Council that unauthorised engineering works had been undertaken to increase the area of hard surfacing on the site. A subsequent retrospective planning application was refused under reference 3/12/0296/FP for the reduction in site levels and the excavation of land to north east, and use of the land for car parking. The area of land the subject of that application is located to the north east of the building approved under LPA reference 3/06/1994/FP and approximately in the area of land the subject of this current proposed development. Following the refusal of application 3/12/0296/FP a Planning Enforcement Notice was served in order to secure the removal of the unauthorised hard surfacing (LPA reference E/12/0156/A). However, a subsequent appeal was allowed, the Inspector concluding that the hard surfacing/car parking did not have an unacceptable effect on the rural character and appearance of the area.
- 3.6 There are a range of occupiers in the current buildings on the wider Hadham industrial estate site and various permissions have been granted for those uses which mainly fall within the B1/B8 classification.
- 3.7 The current application proposes the erection of a new building within the north east corner of the site. It would have a depth of 31metres and a length of 88metres. The proposed building would comprise six separate units, each with a similar footprint. It would have has the appearance of a warehouse, with a shallow pitched roof, and a height of approximately 8.2metres. The plans show the provision of 52 parking spaces in front of the proposed building.
- 3.8 The applicant proposes a legal agreement between the Council and applicant to confirm that the approved development under LPA reference 3/06/1994/FP would not be implemented in the event that planning permission is granted and implemented for the development contained in this application.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
The appropriateness of the development in the Rural Area and sustainability	Paragraph 28	GBC2,3
Impact on the character of the site and surroundings		ENV1
The impact on the living conditions of neighbouring properties and noise		ENV1, ENV24
Car parking provision and access	Paragraph 39,75	TR7, LRC9

5.0 Emerging District Plan

- 5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. Given its stage in preparation, little weight can currently be accorded to the emerging Plan.

6.0 Summary of Consultee Responses

- 6.1 The Environment Agency has no comment to make on the application.
- 6.2 Hertfordshire County Council Waste and Minerals Team refer the Council to the County Councils waste planning documents and encouragement for minimising waste generation.
- 6.3 Hertfordshire County Highways does not wish to restrict the grant of planning permission, subject to the Local Planning Authority being content that the previous permission (3/06/1944/FP) has been implemented.

The County Council have provided various TRICS assessments of industrial developments to assist the Council to better understand the likely levels of traffic movements associated with the development proposal. The County Council set out that there is a wide variation of traffic movements depending on how the development is assessed. The Highway Authority comment that the applicant's Transport Report does not seek to set out the traffic generation associated with the

proposals, relying instead on the details submitted with the earlier application.

- 6.4 Hertfordshire County Historic Environment Unit comment that archaeological monitoring of top soil stripping of the site was carried out in 2009 in connection with LPA reference 3/06/1994/FP and no further archaeological mitigation is necessary.
- 6.5 The Council's Landscape Officer recommends that planning permission be granted. Having regard to the topography and enclosed nature of the site, the proposals will assimilate with the existing industrial/warehousing units without unacceptable landscape impact or change to the immediate or wider surroundings.
- 6.6 Hertfordshire County Council as Lead Local Flood Authority comment that the updated drainage assessment has addressed the concerns previously raised. The applicant has provided sufficient detail to demonstrate that there is a feasible drainage scheme for the site, including underground attenuation. The proposed layout for the development makes the provision of underground attenuation tanks which is a feasible option to provide the required attenuation volume and to provide greenfield runoff rates. Planning conditions are recommended requiring that the development be carried out in accordance with the approved details.
- 6.7 The Environmental Health team advise that planning conditions be included with any permission. The conditions recommended include a restriction on the types of vehicles entering the site at particular times; a noise mitigation scheme; the submission of a noise assessment in the event that any fixed plant, machinery or equipment is implemented and; a restriction on outside working.

7.0 Parish Council Representations

- 7.1 Little Hadham Parish Council object to the application for the following reasons:
- Poor access and the intrusion of industrial development in the rural area;
 - Significant and harmful increase in traffic associated with the proposed development;
 - The development will further increase noise, pollution and visual intrusion on the site.

8.0 Summary of Other Representations

- 8.1 30 representations have been received in respect of this application – 18 in objection and 12 in support of the application.
- 8.2 The representations in support comment that the development will provide job creation and allow business expansion. The development proposal provides access doors and openings which face away from properties within Hadham Hall and will therefore provide improved relationship with those properties compared to that previously granted permission under LPA reference 3/06/1994/FP.
- 8.3 The representations in objection can be summarised as follows:
- Impact associated with pollution, noise and general disturbance associated with six additional units and associated traffic movements;
 - Increase of harmful traffic movements and detriment to highway safety;
 - Impact on users of the public right of way;
 - The planning considerations for granting the extension to the water bottling building are not relevant to this current proposal;
 - No justification for a new industrial building in a rural setting;
 - LPA reference 3/06/1994/FP has not been implemented;
 - The applicant does not have consent from all land owners to discharge into a watercourse.

9.0 Planning History

- 9.1 The most relevant planning history as noted above, relates to the grant of planning permission under LPA reference 3/06/1994/FP for an extension to existing warehouse and factory (B1 and B8 use).
- 9.2 As also noted above, retrospective planning permission was granted, on appeal, for the additional hard surfacing works on the current application site.

10.0 Consideration of Relevant Issues

Rural area policy

- 10.1 Policy GBC3 of the Local Plan sets out that development located within the Rural Area is inappropriate unless it meets certain exceptions. The provision of an industrial building for Class B1/B8 uses does not meet

with any of the exceptions in policy GBC3 and, therefore, the proposal represents an inappropriate form of development.

- 10.2 Section 3, paragraph 28 of the NPPF sets out the national policy position in respect of development in rural areas, such as the application site. The NPPF states that planning policies should “support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development” and, to promote a strong rural economy, local plans should “support the sustainable growth and expansion of all types of business and enterprise in rural areas both through conversion of existing buildings and well-designed new buildings”.
- 10.3 The emphasis in the NPPF as set out above is of course the encouragement of *sustainable* economic development and it is necessary, therefore, to consider whether the proposed development in this case would represent sustainable development such that it would be supported in principle by the NPPF.

Sustainability

- 10.4 As set out in the NPPF there are three dimensions to sustainable development, social, economic and environment. The NPPF makes clear that these differing roles of sustainability should not be undertaken in isolation because they are mutually dependent.
- 10.5 In regards to the economic dimension of sustainability, the provision of a new industrial building on this site has the potential for job creation both in terms of the construction of the building and in terms of potential job creation for new or relocated businesses occupying the units once completed. The plans submitted show that six relatively modest units will be created (each with a floor area of around 100 square metres) which will provide space for small to medium sized businesses. One of the core planning policies in the NPPF is to proactively drive and support sustainable economic development and Officers therefore consider that some positive weight should be attached to this consideration.
- 10.6 However, the site is not located within or particularly close to any of the main settlements in the District which are identified in the Local Plan or draft District Plan as being the more sustainable locations for development. The site is located on the edge of the village of Little Hadham and some five miles or so from Bishop’s Stortford. There is no bus or train station within close proximity and it is likely that the majority

of commercial traffic and also future employees will access the site by motor vehicles. The location of the site is likely therefore to result in greater and longer vehicle movements to and from the site than if the building were to be located in a population centre, such as Bishop's Stortford. Reducing the need to travel is an important sustainable development objective, as is the requirement to reduce greenhouse emissions and congestion and to plan for development which has access to sustainable modes of transport. The scale of this development proposal, and its position in a rural area which is not within a main settlement, does lead to the conclusion that the site is not in a sustainable location. The development is not able to be accessed by sustainable modes of transport (other than perhaps employees walking or cycling to the site from Hadham Hall and Little Hadham which is not likely to be a significant number) and there will be an over-reliance on motor vehicle transport.

- 10.7 As referred to previously, Officers are mindful that section 3 of the NPPF does allow, in principle, for new sustainable development in rural area for economic purposes. However, it is important to note the emphasis of the NPPF on sustainable development and, for the reasons set out above; Officers do not consider that the full requirements of the NPPF would be met. Therefore the policy support for economic growth in the NPPF is not considered to apply with any significant weight in this case.

Fall-back position

- 10.8 The applicant argues, however, that the existence of the extant permission for a Class B1/B8 extension building on the site, is a material consideration that outweighs the policy presumption against the current proposal.
- 10.9 Officers acknowledge that there is an extant planning permission for an extension to the existing warehouse which is very similar, in floorspace terms, to the building proposed within this application. It is also acknowledged that the earlier permitted building could still lawfully be erected. Furthermore, once implemented, it would be possible to subdivide the approved building and add various openings to it, possibly under permitted development rights which would not need to be considered through submission of a planning application.
- 10.10 However, it is also a material consideration that the previous permission only enables the erection of a particular form of development – designed as an extension to another building on the site. That building

would not, in Officers view, be easily sub-divided into smaller units and would, in any event, require the permitted building to be fully completed, as shown on the approved plans, before any external alterations, such as the insertion of additional entrance doors, windows or alterations to the car parking layout, could be carried out to facilitate any subdivision. This would of course be an expensive and time consuming process for the applicant which would be exacerbated if any of the external alterations were to require further planning permission.

- 10.11 Officers consider it unlikely therefore that the additional work and expense involved in the provision, and then later subdivision, of the permitted building would genuinely be undertaken. Furthermore, any units resulting from such a sub-division would be likely to be of an awkward size/form, and would be less attractive and marketable than new, purpose built units such as those now proposed. This again leads Officers to the view that such a development would be unlikely to be carried out. Limited weight can therefore be given to the applicant's argument of a genuine fall-back position.
- 10.12 Officers would also query why, if that fall-back position is a genuine and realistic alternative to the current proposal (as the applicant suggests), that it has never been undertaken. The permission was granted over 9 years ago and appears only to have been partially started in order to keep the permission alive. There does not appear to have been any intention to erect and then subdivide the building since that time (indeed the site was used for an alternative use in the intervening period) and the applicant has not put forward any evidence to show that there is any particular compelling need for this additional commercial floorspace on the site (such as to support an existing business on the site for example) that could not be more appropriately provided within a more sustainable location.
- 10.13 On balance therefore, Officers give little weight in the overall planning balance to any realistic or genuine fall-back position resulting from the existence of the extant planning permission ref: 3/06/1994/FP. The proposed development therefore remains to be considered as an inappropriate and unsustainable development in the Rural Area.

Other planning considerations

Impact on character and appearance

- 10.14 The proposed building is significant in terms of its proportions and overall scale. However, the overall proportions and design of the

building is not dissimilar to other forms of development within the surrounding site. Furthermore, Officers are mindful of the significant proportions of the consented scheme which this application proposes to replace (LPA reference 3/06/1994/FP). The Landscape Officer recommends approval and comments that, given the existing topography of the site, the development will assimilate acceptably with the immediate and wider surroundings.

- 10.15 The proposed development incorporates a building at a height of around 8 metres which will sit just above the existing bank which forms the north-eastern and eastern boundary of the site. As such, the impact in views from the north and east of the site will be limited as the proposed building will sit within the existing levels.
- 10.16 There is a public right of way to the south of the site which runs partially through the industrial estate; there are also views of the site from Hadham Hall which is located around 200 metres or so further to the east of the site. However, in Officers opinion, there will be no significant harm in views from those vantage points or any other vantage points, having regard to the changes in topography and the siting of existing industrial buildings.

Impact on living conditions of neighbouring properties

- 10.17 The siting of the proposed development is approximately 100 metres to the north east of existing dwellings within Church End and approximately 200 metres from residential properties within Hadham Hall. The siting and relationship between the development and those neighbouring properties is such that there will be no significant or material impact on living conditions of those neighbouring properties in terms of loss of light, overshadowing, loss of outlook or overbearing impact.
- 10.18 The application is supported by a noise survey which was requested initially by the Environmental Health Team. That noise survey has been further considered by that team and they raise no objection to the development and recommend the inclusion of various planning conditions.
- 10.19 However a neighbouring resident has commissioned their own noise assessment of the site and this has also been submitted to the Council for consideration. That survey has raised some queries and concerns relating to the base data used by the applicant's noise consultant (in particular with regard to the level of traffic generation that would result

from the development) and Officers have concluded that there is currently insufficient clear evidence on which to properly assess noise impact from the proposed development.

- 10.20 With regard to the impact of the use of the building itself, it is noted that the application is for a mixture of B1/B8 uses although it is not clear what the distribution between those uses might be. A B1 use is, by definition, a use which can operate within a residential area without resulting in a material impact on living conditions of neighbours. If all units were to fall within such a B1 classification the development would not, in Officers opinion result in material harm to living conditions of neighbouring residential properties. However, if a greater number were to be used (or combined for use) for Class B8 purposes, then there may be a material change in the nature of the impact and the number of vehicle movements to and from the site. It is not clear what level of traffic generation would result from the current proposal and therefore it is not clear that the submitted noise assessment has considered the full potential for noise impact in this respect.
- 10.21 In summary, there is currently insufficient certainly as to the level of traffic generation that would result from this proposal to enable a full and proper assessment of the potential impact on nearby residents through noise and disturbance. This weighs significantly against the proposal in the planning balance and justifies a separate reason for refusal of the application. Officers have considered whether the absence of a noise concern would affect the overall planning balance such as to weigh in favour of the proposal. However, that is not the case. The absence of a noise objection would be neutral in the balance of considerations and refusal would still be recommended.

Highways and parking

- 10.22 Various representations have been received raising concern with the impact of the development in terms of increased traffic movements and the impact on highway and pedestrian safety. The Highway Authority however comments that, on the proviso that 3/06/1994/FP has been implemented; they have no comments to make on the application. They have considered a range of likely traffic generation figures for the development (using TRICS) and are satisfied that, in highway terms, the proposal would be acceptable for all those ranges.
- 10.23 The plans submitted with the application shows the provision of 52 parking spaces. Local Plan policy TR7 and Appendix II of the Local Plan sets out that for a B1 (light industrial) use there is a maximum

requirement for 1 space per 35 square metres of gross floor area and, that for a B8 (storage and distribution) use there is a requirement for 1 space per 75 square metres of gross floor area.

- 10.24 The application is for a mixture of B1 and B8 uses and the applicant has not therefore indicated which units will be put to which use. Nonetheless, if all of the units are put to B1 use there is a maximum requirement for 78 parking spaces and, if the all of the units are put to B8 use there is a requirement for some 36 parking spaces. The provision of 52 spaces therefore sits roughly in-between the upper and lower requirements for parking, depending on the use of the units.
- 10.25 The parking standards in the draft District Plan set out similar ranges to the above but also include an additional provision of 1 space per 40 square metres of gross floor area for mixed uses including B1, B2 and B8. Using such a policy approach there will be a requirement for some 68 parking spaces.
- 10.26 The proposed development is considered to be compliant with the current Local Plan policies in respect of the use of all units for B1 use. However, the use of all units for B8 use and a mixed use does leave a shortfall for parking, as required in the adopted Local Plan and draft District Plan. That said, the red outline of the application includes a large area of hardstanding where no parking is shown to be provided. This space could readily be used for any overspill parking of cars, vans or lorries should such a need arise. Officers are therefore of the opinion that an appropriate level of parking and opportunities for further parking, commensurate with the size and scale of the development is provided for.

Surface Water drainage

- 10.27 The development proposal incorporates the provision of a ceullular storage tank where surface water will be directed via a piped system. Surface water will be stored in the storage tank and treated before being discharged at a rate of 5 litres per second. The storage tank provides storage for a 1 in 100 year flood event plus allowance for climate change. The County Council in their role as Lead Local Flood Authority comment that this is feasible drainage scheme for the site and they recommend planning permission be granted subject to conditions.
- 10.28 The provision of a largely subterranean drainage system is not considered to represent a particularly sustainable system in terms of the hierarchy of such systems as set out in the Councils Strategic Flood

Risk Assessment and the NPPF. Whilst this does not weigh in favour of the development, having regard to the advice from the County Council such an approach is acceptable and is neutral in the overall balance of considerations.

- 10.29 A third party representation raises concern that there is no consent from the land owner of the watercourse which the application proposes to discharge into. This is however an ownership issue which is not material to the determination of the application.

11.0 Conclusion

- 11.1 The proposal represents an inappropriate and unsustainable form of development in the Rural Area which is contrary to the policies of both the adopted Local Plan and the NPPF. Whilst the existence of an extant planning permission for a similar amount of Class B1/B8 floorspace is acknowledged, Officers consider that development to be materially different from the current proposal and that it does not represent a genuine fall-back position that can be given any significant weight in the determination of the application.
- 11.2 Whilst some positive weight is given to the proposed economic benefits of the proposal in providing employment provision in the rural area, this is not considered to be sufficient to outweigh the policy presumption against the development in terms of sustainability.
- 11.3 It is therefore recommended that planning permission be refused for the reasons set out below:

Reasons for Refusal:

1. The site lies within the Rural Area as defined in the adopted East Herts Local Plan wherein the provision of new buildings for industrial and warehousing purposes is considered inappropriate in principle. Furthermore, the site is located away from any main settlements and the proposal would therefore be heavily reliant on motor vehicles and would constitute an unsustainable form of development, contrary to the aims of national planning policy contained in the NPPF. Weight which can be attributed to the positive impacts of the development is not such that would outweigh the policy presumption against the development or the unsustainable nature of the development. Furthermore, the Council is not satisfied that the extant permission granted under ref: 3/06/1994/FP represents a convincing fall-back position that would

justify the grant of planning permission for the proposed development. The proposal would thereby be contrary to policies SD2 and GBC3 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.

2. The local planning authority considers that there is insufficient and unclear information contained within the application to enable the Council to properly assess the potential impact of the proposed development on the living conditions of adjacent residential properties by reason of noise and general disturbance. The proposal is thereby contrary to policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.