

Application No: [W 18 / 2399](#)

Town/Parish Council: Warwick
Case Officer: Dan Charles

Registration Date: 19/12/18
Expiry Date: 20/03/19

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Plot 8001-8004, Tournament Fields, Stratford Road, Warwick

Application for the variation of Condition 11 for planning permission W17/1104 to omit Plot 8001 from the requirements of the restrictive condition on the opening of roller shutter doors. The proposed condition would be retained on Plots 8002-8004 on this proposal. FOR Sackville Developments (Warwick) Ltd

This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received.

RECOMMENDATION

That the Section 73 application to condition 11 of W/17/1104 be GRANTED subject to conditions.

DETAILS OF THE DEVELOPMENT

This application is made under section 73 of the Town and Country Planning Act 1990 that relates to the determination of applications to develop land without compliance with conditions subject to which a previous planning permission was granted.

In deciding an application under Section 73, the Local Planning Authority must only consider the condition in question – it is not a complete re-consideration of the application. In this case the applicant is seeking a variation to the wording of a condition through the use of a Section 73 application.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

This application seeks the variation of condition 11 that relates to the restriction on the opening of the doors of the proposed building.

Condition 11 currently states;

"Except in the event of an emergency, all shutter/loading doors shall be kept closed before 0700 hours or after 1900 hours on any day"

The reason for the condition was stated as;

"To protect the living conditions of the nearby dwellings and hotel, in accordance with Policies BE3 & NE5 of the Warwick District Local Plan."

The application sees to vary the condition to the wording as set out below;

"Except in the event of an emergency, all shutter / loading doors on Plots 8002 – 8004 inclusive as shown on Masterplan 0301-P02 shall be kept closed before 0700 hours or after 1900 hours on any day."

The reason for the condition would remain as previously imposed.

In support of the application, an updated noise survey has been submitted to demonstrate that impact of noise from Plot 8001 would not have a detrimental impact on the living conditions of nearby dwellings and the restriction is therefore unnecessary.

THE SITE AND ITS LOCATION

The application relates to plots that form part of an existing site on the Tournament Fields employment site. These plots are situated on the southern edge of the development.

A hotel and residential properties adjoin the site to the south and east, while further vacant plots on Tournament Fields adjoin the site to the north. The A46 adjoins the site to the west. Tournament Fields contains a mix of offices, industrial and warehousing premises, together with a care home and ambulance station.

The site is largely flat, although there is a man-made bund with trees on top alongside the southern boundary. A watercourse runs along the southern boundary, with trees alongside.

PLANNING HISTORY

W/18/2233 - Reserved Matters application for the erection of Class B1, B2 and B8 buildings on plots 8002 and 8003 (revised scheme to plots approved under W/17/1104) – **Pending Consideration.**

W/17/2315 - Application for the variation of condition 11 of planning permission no. W17/1104 to delete the prohibition on loading doors being opened between 1900 hours and 0700 hours and to substitute this with a restriction whereby the loading doors can only be used if internal operations occurring at the time do not cause nuisance to nearby residences as well as a requirement that between these hours the loading doors are only opened for as long as is necessary for instances of the movement of goods or personnel. The new condition 11 would not apply to Plot 8001. Planning permission no.

W17/1104 was for the erection of 4 no. buildings to provide employment development for Use Classes B1, B2 and B8 purposes – **REFUSED 01.03.2018.**

W/17/1104 - Application for approval of reserved matters under outline planning permission no. W/13/0758 for the erection of 4 no. buildings to provide employment development for Use Classes B1, B2 and B8 purposes – **GRANTED 13.10.2017.**

W/13/0758 - Renewal of outline planning permission W/04/1851 for 'Employment development for Use Classes B1, B2 & B8 purposes; associated infrastructure (variation of condition 3 of p.p. W/92/0291 - to allow a longer period of time for the development)' – **GRANTED 03.09.2013**

W/04/1851 - Employment development for class B1, B2 & B8 purposes; associated infrastructure (variation of condition 3 of p.p. W920291 - to allow a longer period of time for the development) – **GRANTED 06.07.2007**

W/92/0291 - Phased erection of B1, B2 and B8 floor space, residential development, service roads, car parking, landscaping, associated infrastructure and ancillary developments – **GRANTED 11.10.1995**

Since the original outline permission was granted, a number of other reserved matters consents have been granted for offices and industrial / warehouse units on other plots on Tournament Fields.

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- EC1 - Directing New Employment Development (Warwick District Local Plan 2011-2029)
- EC3 - Protecting Employment Land and Buildings (Warwick District Local Plan 2011-2029)
- SC0 - Sustainable Communities (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029)
- TR2 - Traffic Generation (Warwick District Local Plan 2011-2029)
- TR4 - Parking (Warwick District Local Plan 2011-2029)
- HS1 - Healthy, Safe and Inclusive Communities (Warwick District Local Plan 2011-2029)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029)
- CC1 - Planning for Climate Change Adaptation (Warwick District Local Plan 2011-2029)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029)

- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)

Guidance Documents

- Parking Standards (Supplementary Planning Document)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Employment Land Development Brief - Tournament Fields, Warwick (Prepared by Severn Trent Property)

SUMMARY OF REPRESENTATIONS

Warwick Town Council: Object to this application. They reiterate the comments made to application W/17/2315, condition 11 should not be removed and add concerns that the fence should be removed, and the bund extended to help the noise experienced by residents. They are also concerned about the objections raised about light pollution and unnecessary removal of trees.

WDC Environmental Health Officer: The submitted assessment has considered the possible noise impacts arising from industrial activity breaking out of the unit itself as well as noise generated by delivery vehicles in the service yard. For both situations the report concludes that there is a low probability of adverse noise impacts occurring from the proposed activities. In light of the revised noise report, we would have **no objections** to the variation of Condition 11 that omits Plot 8001 only from its requirements **subject to** a suitably worded planning condition.

Public Response: A total of 5 letters of objection have been received on the following grounds;

- The dwelling at the Hilton Hotel has been overlooked and is most affected.
- Noise from the site is not background noise and can easily disturb sleep.
- Negative impact on the wellbeing of residents and the operation of the hotel.
- Whilst further away from The Peacocks, the harm would still be heard.
- Increased air pollution and light disturbance.
- Fail to see how the proposal can be considered when it was originally found necessary to restrict the opening hours.

Could lead to 24 hour works with the associated disturbance that would bring.

ASSESSMENT

History/Background

The principle of development has been established through the grant of earlier permissions, the latest being W/13/0758 relating to the provision of B1, B2 and B8 buildings across the site. Various elements of the project have been completed and a number of other buildings have been granted permission or are under construction.

The only material change as part of this application is the impact on adjacent properties as a result of the revised condition.

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

Paragraph 180 of the NPPF requires new development to be appropriate for its location taking into account the likely effects on health. Paragraph 108 a) of the NPPF requires new developments to mitigate and reduce to a minimum the potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

In considering the impact on nearby dwellings, it is important to bear in mind that the site has outline planning permission for all forms of employment development, including research and development / light industrial (Use Class B1), general industrial (Use Class B2) and warehousing (Use Class B8) uses. As a result, the principle of accepting these types of development in this location has already been established.

Plot 8001 is located in the south western corner of the site where it abuts the existing Hilton Hotel to the south and the A46 Trunk Road to the West. The plot is orientated with the main doors opening on the elevation facing north and the associated service yard and parking to the front of the building. The result is that the doors and service area are on the elevation away from the properties located to the south east known as The Peacocks as well as the private accommodation located within the grounds of the hotel premises to the south.

The proposal has been submitted with a detailed noise survey to demonstrate that the location and layout of Plot 8001 would not have a significant adverse impact on the health and quality of life for the occupants of the dwellings at The Peacocks or the dwelling that sits to the south west of the site of this plot.

The Noise Survey has been assessed by the District Councils Environmental Health Officer who has been in discussions with the applicants Noise Consultant and requested additional survey work to be carried out to provide further assessment of the potential impacts on the amenity of neighbouring residents both at the Peacocks and the Hilton Hotel. Following this, the Survey has satisfactorily demonstrated to the Officer that the proposal would not result in significant adverse impacts on the quality of life of nearby residential properties. On this basis the Environmental Health Officer has raised no objection subject to the imposition of the revised condition omitting Plot 8001 from the requirement to control the potential noise impacts of the development as previously imposed on the earlier approval.

Subject to this condition, the scheme is therefore considered to be in accordance with Policy BE3 of the Local Plan and accord with Paragraph 180 of the NPPF.

Assessment of previously imposed conditions

The granting of a Section 73 application grants a new planning permission for the development. Therefore, an assessment of previously imposed conditions is required to determine if still relevant to the application. Any conditions considered still relevant shall be carried forward and amended if necessary to reflect the updated planning permission.

The conditions as set out in the 2017 application are all still relevant and it is recommended that they are carried forwards as previously imposed.

Conclusion

The application is a variation of a previously imposed condition to restrict noise emissions from the buildings. The submission adequately demonstrates through the submission of a detailed noise survey that removing Plot 8001 from the requirements of the condition would not have any significant adverse impact on neighbouring amenity.

There are no other changes as a result of this application that are affected by the removal of this condition.

On the basis of the above, Officers recommend that the condition be varied as set out in the report.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 0003 Rev P-02, 0005 Rev P-00, 0103 Rev P-02, 0105 Rev P-01, 0203 Rev P-03, 0205 Rev P-00, 0301 Rev P-02, 0303 Rev P-02, 0304 Rev P-00 & 0305 Rev P-02, and specification contained therein, submitted on 9 June 2017, 19 June 2017 & 7 September 2017
REASON : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 2 No development shall commence until details of finished site and ground floor levels in relation to existing site levels and the levels of adjoining land have been submitted to and approved by the Local Planning Authority. The development shall be carried out and completed in accordance with the details so approved. **REASON** : To protect the character of the area and the amenities of adjoining occupiers in accordance with the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.
- 3 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which shall have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species. All

hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 & NE4 of the Warwick District Local Plan 2011-2029.

- 4 No development shall commence until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 5 No development or other operations (including demolition, site clearance or other preparatory works) shall be commenced until adequate steps, which shall have been previously approved in writing by the local planning authority, have been taken to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837- 2012 Trees in Relation to Design, Demolition & Construction) to all retained tree(s) on the site, or those tree(s) whose root structure may extend within the site. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy NE4 of the Warwick District Local Plan 2011-2029.
- 6 All existing trees shall be retained and shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) of such size and species details of which must be submitted to and approved by the local planning authority. All tree(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations (excluding hard surfaces). **REASON:** To protect those landscape features which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in

accordance with Policies BE1 & NE4 of the Warwick District Local Plan 2011-2029.

- 7 Notwithstanding the details indicated on the approved plans, the development hereby permitted shall not be occupied until details of boundary treatment have been submitted to and approved in writing by the local planning authority. No boundary treatment shall be installed other than in strict accordance with the details approved under this condition. **REASON :** To ensure a satisfactory standard of design and appearance for the development, in accordance with Policy BE1 of the Warwick District Local Plan.
- 8 The premises hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual amenity in accordance with Policies BE1, BE3 & TR4 of the Warwick District Local Plan 2011-2029.
- 9 None of the premises hereby permitted shall be occupied unless and until cycle parking has been provided in accordance with details that shall have been submitted to and approved in writing by the local planning authority. The cycle parking shall be retained at all times thereafter. **REASON:** To ensure adequate cycle parking facilities, in accordance with Policy TR4 of the Warwick District Local Plan 2011-2029.
- 10 None of the units hereby permitted shall be used for purposes falling within Class B2 of the Town and Country Planning (Use Classes) Order 1987 unless:
 - (a) a noise assessment (including details of noise mitigation measures if deemed appropriate) has been submitted to and approved in writing by the local planning authority; and
 - (b) any noise mitigation measures approved under (a) have been implemented in strict accordance with the approved details.

Any noise mitigation measures shall thereafter be retained and maintained in strict accordance with the approved details at all times that the unit is used for purposes falling within Class B2 of the Town and Country Planning (Use Classes) Order 1987.

REASON : To protect the living conditions of the nearby dwellings and hotel, in accordance with Policies BE3 & NE5 of the Warwick District Local Plan.
- 11 Except in the event of an emergency, all shutter/loading doors on Plots 8002-8004 inclusive as shown on Masterplan 0301-P02 shall be kept closed before 0700 hours or after 1900 hours on any day. **REASON:** To protect the living conditions of the nearby dwellings and hotel, in accordance with Policies BE3 and NE5 of the Warwick District Local Plan.
- 12 No noisy external activities likely to cause nuisance to nearby

residences shall take place on site before 0700 hours or after 1900 hours on Monday to Saturday or before 0900 hours or after 1800 hours on a Sunday or Bank / Public Holiday. **REASON:** To protect the amenities of occupants of nearby properties in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.

- 13 Noise arising from any plant or equipment, when measured one metre from the façade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of occupants of nearby properties in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 14 The development shall be carried out in strict accordance with the Construction and Environmental Management Plan by Benniman Construction Group that was submitted on 28 July 2017. **REASON :** To protect the amenities of occupants of nearby properties in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 15 No lighting or illumination of any part of any building or the site shall be installed or operated unless and until details of such measures shall have been submitted to and approved in writing by the local planning authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details. **REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 16 No chimneys or flues shall be installed on any of the premises hereby permitted other than in strict accordance with details that shall have been submitted to and approved in writing by the local planning authority. **REASON :** To protect the living conditions of nearby dwellings, in accordance with Policy NE5 of the Warwick District Local Plan.
