

RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

APPROVAL

DATE: 13 APRIL 2023

REF: WH

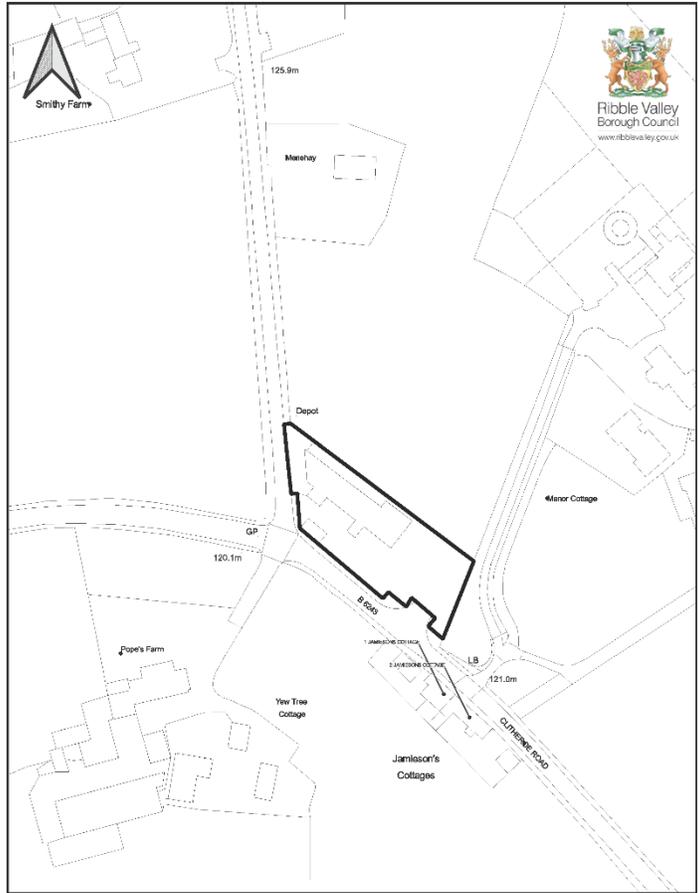
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APPLICATION REF: 3/2023/0093

GRID REF: SD 66000 37820

DEVELOPMENT DESCRIPTION:

VARIATION OF CONDITION 5 OF PLANNING PERMISSION 3/2021/0440 (WORKING HOURS) TO CHANGE TO 07:00 – 19:00 MON – FRI AND 08:00 – 16:00 ON SATURDAY AND CONDITION 10 (CONSTRUCTION HOURS TO CLARIFY SATURDAY WORKING TIMES FOR CONSTRUCTION WORK AT DUTTON MANOR MILL, CLITHEROE ROAD, RIBCHESTER PR3 2YT



3/2023/0093 Dutton Manor Mill, Clitheroe Road, Ribchester PR3 2YT

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CONSULTEE RESPONSES/ REPRESENTATIONS MADE:

PARISH COUNCIL:

No comments received.

ENVIRONMENT HEALTH:

Environmental Health have offered the following observations:

- Agree that Condition 10 is incorrectly written and supports the proposed amendment.
- The extended hours of use proposed are acceptable.
- The operator shall adhere to the Statement of Operations
- The use of any forklift truck on site shall be within the hours of delivery

ADDITIONAL REPRESENTATIONS:

The Council received a total of **18no.** representations in respect of the application – **11** in objection to the application, and **7** in support of the application.

The **11no.** objections raised the following for consideration:

- Increase in disruption and noise in a small residential and farming hamlet;
- Building is huge, overbearing and dominates its surroundings;
- Area of Natural Beauty should be protected;
- Noise, dust and dirt from present construction has been unbearable;
- Impact on road safety;
- Existing building overlooks neighbouring properties;
- Building not built to approved plans; *and*
- Building does not improve the character of the area.

The **7no.** letter of support raised the following for consideration:

- Land had historically been operating as a commercial business for a significant number of years prior to the construction of the new building;
- Previous building and use did not operate under any restriction of opening hours and frequently took deliveries in the early hours of the morning, and received via HGV occasionally outside the normal working hours;
- Site is based on a main road frequented by HGVs, commercial vehicles and farm vehicles; *and*
- Site is operated by a local company providing local employment.

Included within this number of letters of support sits a letter from Nigel Evans MP, the Member of Parliament for Ribble Valley. The letter raised the following for consideration:

- Proposals will work to help energy conservation and tackle the challenges of climate change, as well as create numerous valuable jobs;
- It is not considered that traffic levels will be worse than that of the previous use; *and*
- Initiative will be of great value to the Ribble Valley

1 Site Description and Surrounding Area

1.1 The application relates to a site located on the corner of Clitheroe Road and Huntingdon Hall Road. Access is gained from Clitheroe Road to the south, with Huntingdon Hall Road

bounding the site to the west. To the north sits an open field, and to the east the front curtilage of the dwelling at Manor House. The site sits within the Forest of Bowland AONB.

- 1.2 The surrounding context and locality is predominately rural, with a small number of scattered residential dwellings sitting within a 250m radius of the site.
- 1.3 The current use of the site is that of an industrial/storage building with mezzanine office which was approved under application reference 3/2021/0440.

2 Proposed Development for which consent is sought

- 2.1 The application seeks to vary conditions 5 and 10 of the above consent, relating to working hours (condition 5) and construction hours (condition 10).

- 2.2 Condition 5 as approved reads as follows:

2.2.1 *“The working hours within the premises shall be restricted to the period from 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. No work shall be undertaken on Sundays, Bank or Public Holidays.”*

- 2.3 Condition 5 as proposed reads as follows (change emphasised in bold text):

2.3.1 *“The working hours within the premises shall be restricted to the period from **0700 to 1900** Mondays to Fridays and **0800 to 1600** on Saturdays. No work shall be undertaken on Sundays, Bank or Public Holidays.”*

- 2.4 In relation to condition 10, the proposed amendment seeks to correct a typing error within the original permission. No change of construction hours is proposed.

- 2.5 Condition 10 as approved reads as follows:

2.5.1 *“No construction work, construction traffic or operation of any plant/machinery shall take place on the site during the course of the development hereby approved except between the hours of 0800 hours and 1800 hours Monday to Friday and 0900 and 1300. No construction work, construction traffic or operation of any plant/machinery shall take place on Sundays or Public Holidays. Furthermore, no deliveries or vehicles shall arrive on site outside these stipulated working works.”*

- 2.6 Condition 10 as proposed reads as follows (change emphasised in bold text):

2.6.1 *“No construction work, construction traffic or operation of any plant/machinery shall take place on the site during the course of the development hereby approved except between the hours of 0800 hours and 1800 hours Monday to Friday and 0900 and 1300 **on Saturdays**. No construction work, construction traffic or operation of any plant/machinery shall take place on Sundays or Public Holidays. Furthermore, no deliveries or vehicles shall arrive on site outside these stipulated working **hours**.”*

3 Relevant Planning History

3/2022/0378:

Removal of condition 5 of planning permission 3/2021/0440 (Restriction of working hours) to allow unlimited times and days of operation and variation of condition 10 (Restriction of construction hours) to clarify Saturday working times for construction work. (Withdrawn)

3/2022/0362:

Discharge of condition 3 (Materials) and condition 9 (Construction Method Statement) from planning permission 3/2021/0440 (Conditions Discharged)

3/2021/0440:

Proposed demolition of existing single storey office/storage building; demolition of existing attached industrial storage building; demolition of existing detached outbuilding. Erection of new industrial/storage building with mezzanine office and Part M compliant entrance/approach and WC facilities. (Approved with Conditions)

3/2019/0390:

Prior notification for a change of use of a building from office use (Class B1 (a)) to a dwelling house (class C3) to create four bungalows and 2 houses. (Permissioned Required, Appeal Dismissed)

3/2002/0103:

Extensions to form additional office and warehouse space (Approved with Conditions)

3/2001/0360:

Advertisement consent for a board sign on gable of property with swan neck spot illumination (Approved with Conditions)

3/1999/0229:

Conversion of storage building into shop as ancillary use to main health rack offices and warehouse building. Opening hours to be same as main building (Approved with Conditions)

3/1999/0211:

Advertisement consent for a trough lit advertisement sign (Approved)

3/1998/0635:

Change of use from general industrial to wholesale/warehouse (Approved with Conditions)

4

Relevant Policies

Ribble Valley Core Strategy

Key Statement DS1 – Development Strategy

Key Statement DS2 – Sustainable Development

Key Statement DMI2 – Transport Considerations

Key Statement EN2 – Landscape

Key Statement EC1 – Business and Employment Development

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMG3 – Transport and Mobility

Policy DMB1 – Supporting Business Growth and the Local Economy

5 **Assessment of Proposed Development**

5.1 **Principle of Development:**

- 5.1.1 The application is made under Section 73 of the Town and Country Planning Act 1990 which seeks to vary conditions 5 and 10 of planning permission granted under application reference 3/2021/0440. As such the principle of development (that being the variation of a condition) is accepted subject to further detailed assessment on the remaining material considerations.
- 5.1.2 Furthermore, the application seeks to extend working hours on the industrial/storage building with mezzanine office (currently under construction, although nearing completion), subsequently accommodating further growth for an established local business. As such, this is compliant with CS Policy DMB1 which states that *'proposals that are intended to support business growth and the local economy will be supported in principle'*.
- 5.1.3 It is considered that the amendment of condition 10 to correct a typing error is acceptable and does not require further assessment. As such the remainder of the report will assess the material considerations in relation to the variation of condition 5 only.
- 5.1.4 It should be noted that no element of this application relates to the principle of development, design or amenity impact by way of design (such as reduction in outlook or loss of privacy) in relation to the implementation and construction of the approved building.
- 5.1.5 The material considerations that will be considered as part of this application are as follows:
- Requirement for Business Need and Impact upon the AONB
 - Impact upon Residential Amenity
 - Impact on Highways
 - Other Matters

5.2 **Requirement for Business Need and Impact upon the AONB:**

- 5.2.1 As per CS Policy DMB1, the Council will support proposals that are intended to support business growth and the local economy. Furthermore, CS Policy DMG2 goes on to state that that in protecting the designated Area of Outstanding Natural Beauty the Council will have regard to the economic and social wellbeing of the area, although the most important consideration in the assessment of any development proposals will be the protection, conservation and enhancement of the landscape and character of the area.

- 5.2.2 As such it is necessary to establish whether an extension of opening hours is a necessary and reasonable undertaking particularly in regard to any potential impact on the AONB.
- 5.2.3 The applicant has submitted a Statement of Operations to provide further supporting evidence as to the nature of the work done at the site, regularity of use and attendance by mobile engineers, office staff and occasional visitors. The statement also includes a clarification as to the Use Class of the site.
- 5.2.4 Within the statement, the applicant states that the business is not a manufacturing business and as such there are no industrial processes carried out on site. The applicant also states that the site does not include any elements of retail or distribution.
- 5.2.5 The extension in opening hours comes as a consequence of increased workload in relation to the current energy crisis. As such it is occasionally necessary to attend the premises outside of the currently approved business hours either for mobile engineers to collect parts and equipment, or for office staff to complete their work.
- 5.2.6 Officers consider that, given the submitted information from the applicant, there is a reasonable evidenced need for the business to be open at the hours proposed, in regard to an increased workload and in particular a need for mobile engineers to collect specialised, bespoke materials and equipment prior to attending site. In the same vein it is reasonable to conclude that core office staff may be required to stay later than 1800 in order to complete outstanding work. As such an extension to the opening hours is considered reasonable on this basis.
- 5.2.7 With regard to CS Policies DMG2 and EN2, it is necessary to assess how this will impact upon the protection, conservation and enhancement of the character on the AONB. The NPPF also states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's.
- 5.2.8 In this regard, the application does not seek to alter any design features of the original approval. It is noted that many of the representations of objections state that as a result of the earlier/later use of the site resulting in increases in noises and vehicle movements, there may be an impact on the character or scenic beauty of the AONB. Whilst it is accepted that character and scenic beauty do not solely relate to the visual aspect of the AONB and can sometimes include impacts related to noise and vehicular movements, in this case the primary use of the site is not considered to create excess noise in its original approved hours of use. As such officers do not consider that extending opening hours by an additional two hours on Mondays - Fridays (one hour each end of the day) and three hours on Saturday would result in a higher or unacceptable level of noise or output. With respect to a greater level of vehicular movements, again given the accepted use of the site, an extension of opening hours is not considered to impact on the character or scenic beauty as this is not likely to result in a greater number of vehicular movements, but a minor shift in when existing vehicular movements take place.

- 5.2.9 Given the above the application is considered to be acceptable with regard to the accepted business need, and any impact on the Forest of Bowland Area of Natural Beauty.

5.3 Impact upon Residential Amenity:

- 5.3.1 As per CS Policy DMG1, development must not adversely affect the amenities of the surrounding area.
- 5.3.2 Officers consider that the prevailing view in relation to any impact on residential amenity has not changed from the original approval, which stated that *'[the proposal] is considered to have a negligible impact given the distance from adjacent properties with either open land or road separating the building'*. The extension of working hours proposed in this application will not result in a greater impact upon residential amenity than the hours already approved as the site is considered to be sufficiently distant from adjacent residential dwellings.
- 5.3.3 Following consultation with the Council's Environmental Health team, no concerns have been raised and the hours of use are considered to be acceptable for the accepted use classes, which are to be discussed below.
- 5.3.4 Resident's concerns in representations received are noted in relation to noise emanating from construction activity. Amenity impacts of this kind can be detrimental particularly where construction involves the operating of loud, heavy machinery, a large number of construction workers on site and regular deliveries of construction material. Conditions 9 and 10 of the original approval were subsequently imposed to mitigate the amenity impacts throughout the period of construction.
- 5.3.5 Furthermore, it is noted that there are a number of functioning farms in the immediate vicinity of the application site which are likely to have an earlier starting time to that proposed. In addition, it is noted that the bus stop sited immediately south of the application site serves the number 5 bus to Chipping, starting at 6:54am which again sets a precedent for early vehicular movements before the amended opening hours proposed in this application.
- 5.3.6 It is noted that a number of the representations state that construction has often started outside of the working hours agreed within Condition 10. Officers would encourage anyone who believes there has been a breach of a planning condition to report this to Planning Enforcement if they have not already done so for this to be investigated.

5.4 Impact upon Highways:

- 5.4.1 Officers do not consider that there is any material change in relation to the Highways impacts by way of a variation of condition 5. No significant increase in the volume of vehicular movements is anticipated nor is there any amendment to the access, level of parking or the internal layout of the site.

5.5 Other Matters:

- 5.5.1 It is noted that the existing use class of the site is unclear. The applicant maintains that, as a result of the original approval replacing an existing series of buildings, the use class continued based on the previous use of the site (with the exception of retail) which included the following Use Classes:
- E(g)(i) Offices to carry out operational or administrative functions
 - B8 Storage or distribution
 - B2 General industrial
 - E(a) Display or retail sale of goods other than hot food
- 5.5.2 The applicant clarifies that the new premises will not be used for general industrial purposes and that the building will now comprise the following Use Classes:
- E(g)(i) Offices to carry out any operational or administrative functions
 - B8 Storage or distribution
- 5.5.3 Officers have considered the above assertion provided by the applicant. Following a site visit and thorough review of all representations received it is considered that the Use Class is B8 Storage or distribution with the office use ancillary to the B8 use. There is no evidence of any industrial processes being carried out nor any industrial equipment present, and it is apparent that the primary use of the unit is that of a warehouse which is used for storage of specialist materials that are not widely available from local suppliers.
- 5.5.4 In approving this Section 73 application the Council are able to include new conditions as part of the permission. As such a condition is proposed to restrict the Use Class to that outlined above.

5.6 Observations on Representations

- 5.6.1 The majority of representations received have been addressed in the report. Matters pertaining to the construction of the previously approved building are not material considerations relevant to this decision.

6 Observations/Consideration of Matters Raised/Conclusion

- 6.1 For the reasons outlined above the proposed Section 73 application is considered to be compliant with the relevant policy found within the Ribble Valley Core Strategy as well as the NPPF. In particular, it is considered that the extension in opening hours would enable a local business to further build and grow, have a negligible impact on the character and scenic beauty of the AONB and would not impact upon local residential amenity or highway safety.

RECOMMENDED: That planning permission be granted subject to the following conditions:

1. The development must be begun not later than the expiration of three years from the date of the original consent 3/2021/0440, dated 23rd September 2021.

REASON: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:
- Location Plan Reference JM-0207 LOCAL PLAN
 - Proposed Site Plan Reference JM-0207 LOCAL PLAN 004 Rev E (received 19.08.2021)
 - Proposed Ground Floor Plan Reference JM-0207 LOCAL PLAN 005 Rev D (received 19.08.2021)
 - Proposed First Floor Plan Reference JM-0207 LOCAL PLAN 006 Rev C (received 19.08.2021)
 - Proposed Elevation and Section Plan Reference JM-0207 LOCAL PLAN 007 Rev E (received 19.08.2021)

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The development shall be carried out in accordance with the external walls, roofing and rainwater goods materials detailed in the 'Proposed Materials Schedule for Discharge of Condition 3' document submitted and approved in discharge of conditions application reference 3/2022/0362.

REASON: To ensure that the materials to be used are appropriate to the locality.

4. The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development unless otherwise required by the reports above, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

REASON: To ensure the proposal is satisfactorily landscaped and appropriate to the locality.

5. The working hours within the premises shall be restricted to the period from 0700 to 1900 Mondays to Friday and 0800 to 1600 on Saturdays. No work shall be undertaken on Sundays, Bank or Public Holidays.

REASON: In order to protect the residential amenity of the occupiers of the adjacent properties from noise related activities.

6. No goods, plant or materials shall be deposited or stored on the site other than in the buildings shown on the approved plans.

REASON: To ensure a satisfactory appearance of the site in the interests of local visual amenity and in the interests of the amenities of nearby residents.

7. Nothing shall be erected, retained, planted and / or allowed to grow at or above a height of 1m above the nearside carriageway level which would obstruct the visibility splay. The visibility splays shall be maintained free of obstruction at all times thereafter for the lifetime of the development.

REASON: To ensure adequate inter-visibility between highway users at the street junction or site access, in the interests of highway safety.

8. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with drawing number JM-0207 004 Rev E. Thereafter the onsite parking provision shall be so maintained in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

9. The Construction Method Statement and Proposed Site (Construction Phase) Layout Plan submitted and approved in discharge of conditions application reference 3/2022/0362 shall be adhered to throughout the construction period of the development.

REASON: In the interests of the amenity of the area and highway safety.

10. No construction work, construction traffic or operation of any plant/machinery shall take place on the site during the course of the development hereby approved except between the hours of 0800 hours and 1800 hours Monday to Friday and 0900 and 1300 on Saturdays. No construction work, construction traffic or operation of any plant/machinery shall take place on Sundays or Public Holidays. Furthermore, no deliveries or vehicles shall arrive on site outside these stipulated working hours.

REASON: In order to protect the residential amenity of the occupiers of the adjacent properties from noise disturbance.

11. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (as amended or re-enacted) the storage unit as indicated on plan reference JM-0207 LP 004 Rev E shall only be used for the purposes of B8 (Storage or distribution) and for no other purpose.

REASON: To define the scope of the permission hereby approved and to ensure that the development remains compatible with the character of the area.

BACKGROUND PAPERS

https://webportal.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2023%2F0093