|  |
| --- |
| **Report to be read in conjunction with the Decision Notice.** |
| **Signed:** | **Officer:** | **LE** | **Date:** | **27.4.2022** | **Manager:** | **NH** | **Date:** | **28.04.22** |
| **Site Notice displayed** | **Y** | **Photos uploaded** | **Y** |  |
|  |
| **Application Ref:** | 3/2022/0109 |  |
| **Date Inspected:** | Feb 2022 |
| **Officer:** | **LE** |
| **DELEGATED ITEM FILE REPORT:**  | **Decision** | **APPROVE** |
|  |
| **Development Description:** | Variation of Condition 6 (hours of operation) from planning permission 3/2019/0821 for Unit 12 only to Monday to Saturday 06.00 to 22.00 Sundays 07.00 to 17.00. |
| **Site Address/Location:** | Unit 12 Baublock Blackburn Road Simonstone BB12 7FS |
|  |
| **CONSULTATIONS:**  | **Parish/Town Council** |
| Simonstone Parish Council – No objections |
|  |
| **CONSULTATIONS:**  | **Highways/Water Authority/Other Bodies** |
| **LCC Highways:** | No objections but comment that 6 parking spaces would be required for the change of use.  |
|  |
| **CONSULTATIONS:**  | **Additional Representations.** |
| 2 objections have been received and the concerns are summarised as* Noise impact due to lack of soundproofing
* Inadequate parking
* Change of use of the premises
 |
|  |
| **RELEVANT POLICIES AND SITE PLANNING HISTORY:** |
| **Ribble Valley Core Strategy:**Policy DMG1: General Considerations Policy DMG2: Strategic Considerations |
| **Relevant Planning History:**3/2017/0284 - Proposed Business Park comprising 18 industrial units for B8 (storage and distribution) and B1 (offices and light industry) uses (resubmission of application 3/2015/0906) – Approved subject to legal agreement - 9.7.20183/2018/0818 - Application for the discharge of condition 3 (materials), 27 (Foul and surface water), 28 (surface water drainage scheme), 29 (sustainable drainage management and maintenance plan), 30 (details of the design and implementation of surface water sustainable drainage scheme), 31 (completion of a sustainable drainage scheme in accordance with the submitted details) and 32 (details of an appropriate management and maintenance plan for the sustainable drainage system) from planning permission 3/2017/0284.3/2019/0821 - Application for the variation of condition 2 (development shall be carried out in accordance with proposals), 3 (materials), 14 (existing access), 15 (scheme for the construction of the site access and the off-site works of highway improvement), 16 (joint survey between the developer and the planning authority), 17 (Traffic Management Plan), 20 (cycle path), 21 (new estate road/access), 22 (landscaping scheme), 26 (provisions for building dependent species of conservation concern, artificial bird nesting boxes / artificial bat roosting sites), 28 (surface water drainage scheme), 29 (sustainable drainage management and maintenance plan), 30 (design, based on sustainable drainage principles and a surface water sustainable drainage scheme) and 32 (management and maintenance plan for the sustainable drainage system) from planning permission 3/2017/0284. – Approved3/2020/0032 - Discharge of condition 6 (external lighting) from planning permission 3/2017/0284.3/2020/0211 - Discharge of conditions 3 (Noise), 4 (Lighting), 12 (Highways), 13 (Cycling), 16 (Landscaping), 20 (Conservation) and 22 (Drainage) from planning permission 3/2019/0821. |
|  |
| **ASSESSMENT OF PROPOSED DEVELOPMENT:** |
| **Site Description and Surrounding Area:**The application site is unit 12 of a larger industrial site consisting of 17 Units located off Blackburn Road, Simonstone and lies adjacent to Time Technology Park in a predominantly industrial area. However, there are some dwellings in the vicinity the nearest being on the opposite side of Blackburn Road. The development is substantially complete and some units appear to be occupied.  |
| **Proposed Development for which consent is sought:**The application seeks to vary condition 6 (hours of operation) from planning permission 3/2019/0821 for Unit 12 only to extend the opening hours to Monday to Saturday 06.00 to 22.00 Sundays 07.00 to 17.00.The current condition stipulates that the opening hours are 07.00 to 20.00 Monday to Friday, 07.00 to 18.00 Saturdays and 09.00 to 16.00 on Sundays. |
| **Observations/Consideration of Matters Raised/Conclusion:**Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. The original planning permission will remain intact whatever the outcome of the application under section 73 and the developer can then elect between them. Therefore this application does not seek to revisit the material planning issues associated with the principle of the development, only whether the variations to the specified condition is acceptable.The LPA may impose conditions beyond those which are proposed in the section 73 application, but these should only be ones that could have been imposed on the original grant.The opening hours condition was imposed for the following reason: *The use of the premises outside these hours could prove injurious to the character of the area and in order to safeguard residential amenities.*Unit 12 is a small unit of 144 sq metres located to the Northernmost part of the site behind it is an embankment and trees and then several agricultural fields before the A671 Whalley Road. It is located 190 metres away from the nearest property which lies to the south. The original consent was for B1 (light industrial) and B8 (storage and distribution) which are uses that are considered compatible in a residential area. Whilst it is still considered that a condition controlling the hours of operation is appropriate, the extended hours are not excessive, and it is not considered that the proposal would be of detriment to neighbouring residents. This variation shall relate to this unit only and any other changes to opening hours on other units would be subject to further variations so that the cumulative impact can be assessed.   |
| **Other Matters**It is noted that the unit is question is occupied by a gym. The agent submits that the proposed change of use of the premises is lawful as the old and new use would fall under the new use class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) Condition 12 of planning consent 3/2017/0284 and condition 10 of planning consent 3/2019/0821 states:*Notwithstanding the provisions The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended) or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the units hereby approved shall only be used for the purposes of use classes B1 and B8.* *REASON: For the avoidance of doubt, and to avoid an over-intensive use and to ensure that the development remains compatible with the character of the area and the intensity and frequency of usage remains proportionate to the use.*As such whilst B1 has become E(g) within the new use classes, the intention of this condition is to ensure that the units were retained in employment use including offices, research and development and/ or industrial processes. As such it is the opinion of the LPA that the use of the unit is restricted to E(g) or B8 by virtue of the condition attached to the planning approval implemented at this site and that use of the unit as a gym (use class E(d)) would require planning permission. This matter is not confirmed via this application.Condition 12 is updated to reflect the new use classes and conditions which are complied with are removed as the LPA is permitted to do by Section 73 of the TCPA. The elements of those conditions which refer to ongoing maintenance etc with subsist by virtue of the original approval. |
| **RECOMMENDATION**: | That the variation to condition 6 be approved.  |