

REPORT TO: Planning Committee

MEETING DATE: Tuesday 18 June 2013

BY: Executive Director (Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: local consternation that industrial sites are being allocated in the countryside when ELC Planning has been derelict in its duty by allocating no provision for business/industry within N. Berwick.

Application No. **13/00151/P**

Proposal Change of use of verge to form vehicular access, alterations to building, installation of CCTV cameras, erection of fencing and gates

Location **Halfland Barns
North Berwick
East Lothian
EH39 5PW**

Applicant Mr Gerry Fitzelle

Per Iain Stewart Architect

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is part of the former Halfland Mushroom Farm, located in the countryside at Halfland Barns to the southeast of North Berwick.

On 9 November 2012 planning permission (12/00429/P) was granted through the Council's Scheme of Delegation List procedure for the change of use of the land of the former mushroom farm to business use (class 4). The grant of planning permission is subject to conditions controlling visibility splays of the existing access, working hours, noise emanating from the site and external storage.

Class 4 of the Use Classes Order defines business use:

- (a) as an office, other than a use within class 2 (financial, professional and other services);
- (b) for research and development of products or processes; or
- (c) for any industrial process;

being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

The site is some 0.25 hectares of the 1.23 hectares area of the former mushroom farm. It is bounded to the north by hedge and tree planting with the C139 public road beyond, to the east and south by other land of the former mushroom farm with hedge and tree planting and the residence of Halfland House to the east, and agricultural land to the south. To the west it is bounded by a tree planted bund with agricultural land beyond.

On the site is an existing 284 square metre pitched roof building clad in composite panels. It was previously used for the operation of the mushroom farm.

To the northeast are houses of Smiddy Cottage, Smiddy Halfland Barns and Halfland Barns Schoolhouse and the business premises of Pitclay Gallery. Further east are the houses of Auldham Cottages. Otherwise the surrounding land is in agricultural use.

Planning permission is sought for alterations to the existing building, the change of use of part of the verge at the north of the site to form a vehicular access, the erection of fencing and gates and for the installation of CCTV cameras.

The applicant proposes to use the building for MOT testing and for vehicle repairs and maintenance.

The application is accompanied by a Design Statement. A method statement for the erection of fencing and gates has also been submitted.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The area of land of the former mushroom farm to the south of this application site is the subject of a separate, unrelated planning application 13/00251/P for the erection of a workshop building for Class 4 business use. That application is also on this Scheme of Delegation List.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policy ENV3 and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and the Undeveloped Coast), DP2 (Design), DP14 (Trees On or Adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Twelve written objections have been received. Two of the objectors have submitted two letters each. The grounds of objection are:

- 1) no neighbours were notified of the application;
- 2) the proposal is contrary to Local Plan policies DC1, DP1 and DP2;
- 3) the effect on nearby residents of noise, vibration, smell, fumes, smoke, use of compressors and similar tools and oil contamination;

- 4) the monitoring and enforcement of such issues is notoriously difficult;
- 5) it would result in greater use of a narrow unclassified road which is not suitable for additional car and van journeys and heavy vehicles to serve an industrial site. The road has sharp bends and is used by cyclists and walkers;
- 6) the additional vehicular access is unnecessary;
- 7) fences, lights and CCTV cameras would detract from the countryside and area of natural beauty;
- 8) CCTV would affect the privacy of local residents
- 9) the proposed security measures are not necessary here, they are proposed due to break-ins at the applicant's existing site;
- 10) the applicant's existing site at Whitekirk is strewn with debris and vehicles;
- 11) the use of the whole site granted planning permission for Class 4 use could result in 8 businesses using the site, with further additional traffic;
- 12) the applicant's original preference for Class 5 industrial use should have sounded alarm bells;
- 13) there has been no further mention of Section 75 agreements;
- 14) it will devalue an objectors property;
- 15) it will increase risk of burglary of nearby houses due to the increased passing of workers and suppliers;
- 16) Scottish Power's supply lines are below the ground in front of an objectors house, will the supply to the site also be underground;
- 17) the proposal is for an existing new business and will not generate significant new employment;
- 18) there is no passing trade for this type of business;
- 19) it will disturb and drive away wildlife at nearby Roundhall; and
- 20) it will result in the loss of trees and of hedges which provide bee habitat.

The application was neighbour notified and advertised in accordance with statutory requirements.

The effect of proposals on the value of an objector's house is not a material planning consideration in the determination of this application, nor is a perceived risk of burglary due to workers and suppliers passing nearby houses. Access and provision of power supply is a private matter between the applicant and Scottish Power.

The site is not the subject of any landscape, natural heritage or protected species designation.

The Council's Biodiversity Officer confirms that he has no issues with the proposed development.

The residential property of Halfland House was previously tied to the business of Halfland Mushroom Farm by a Section 75 agreement. The Council agreed in 2011 to the discharge of that agreement through grant of discharge of planning obligation 11/00003/OBL, on the grounds that the mushroom farm business had been wound-up.

In the Design Statement submitted with the application it is stated that the working environment would not be noisy, with the majority of the work quiet, being diagnostic in nature through computers linked to car engine management systems and concentrated work involving dismantling and repair of small components.

It is further stated that the business does not carry out extensive bodywork repair, spray painting or panel beating but only minor works such as to an exhaust or cill.

The applicant states that he supplied a list of equipment used by the business to the Council's Environmental Protection team, with relevant noise data where available. It is indicated on the plans submitted that potentially noisier equipment such as a compressor would be housed in an acoustically damped enclosure if necessary.

The applicant refers to correspondence from Environmental Protection on noise in which it is stated that the applicant should be able to comply with their recommended noise limits.

The use of the proposed building for MOT testing, diagnostic work and repairs of the types stated are of a light industrial nature. They do not involve the use of heavy machinery. They would be contained within the proposed building.

On the basis of the above the proposals accord with the approved Class 4 use of the site. There are no permitted development rights to change the Class 4 use of the site to some other use. Any future proposal for a use other than a Class 4 use would require planning permission and so too would any proposal for the erection of a new building or the carrying out of any other form of development on the site. They would be subject to the planning control of the Council.

The Council's Environmental Protection Manager has no objection to the proposals. He raises no concerns in respect of the proposed operations as set out in the applicant's statement.

In respect of potential impacts from the use of the proposed building, he refers to the relevant conditions of planning permission 12/00429/P:

- Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.
- Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation purposes.

The Environmental Protection Manager is satisfied that the proposed use of the building can be carried out in compliance with those conditions. He further recommends that there be a condition controlling any short burst duration noise, such that the Rating Level, LArTr, of noise emanating from the premises when measured 3.5m from the

façade of any neighbouring residential property be no more than 5dB (A) above the background noise level, LA90T.

Subject to these conditions the Environmental Protection Manager raises no concerns that the proposals would have any harmful impact on residential amenity.

The Council's Economic Development Manager has no objection to the proposals. She confirms that the applicant's company AA Engineering, requires to relocate from its existing site at Whitekirk due to the proposed hotel development there.

The proposed alterations to the building would be to form two windows on the north elevation, form a pedestrian doorway at the south end of the east elevation and change the position of the existing two roller shutter doors on the east elevation. The alterations proposed are minor in nature and would not affect the character and appearance of the building. Nor would they have any impact on the privacy of houses in the area.

The proposed palisade fence would be 2.4 metres in height and be painted a dark green colour.

The applicant advises that there would be a need for the parking of customer vehicles during their repair and maintenance at the premises; most of these vehicles will be in a drive-away state (though some will be in the process of repair) hence the need for a secure compound at the site.

The proposed fence would not be erected around the perimeter of the site at the roadside or to the west of the bund. Rather, it would be erected along the inner line of the existing tree and hedge belts to the north and east of the site and on the south side of the site. The north and west lengths of it would therefore be enclosed by that existing planting, other than at the proposed access, where a small part of it and the proposed gates would be visible from the public road. The south length and short east length of it would be screened from the road by the existing building.

The applicant has stated that he would be willing to carry out additional planting around the new access to screen and soften the appearance of the fence and gates. This can be required by a condition of the grant of planning permission. Subject to this the proposed fence and gates would not be a harmfully intrusive presence in this part of the East Lothian countryside.

In respect of the trees and hedges, the Council's Policy and Projects Manager advises of concerns at the impact of digging to erect the proposed fence within the existing line of trees and hedge around the site. In response to these concerns, the applicant has submitted a method statement. The Policy and Projects Manager accepts the findings of this method statement other than requiring that any digging be carried out by hand to protect tree and hedge roots. The applicant has confirmed his agreement to this, which can be made conditional on the grant of planning permission.

In the statement accompanying the application, it is proposed to have lighting above the new west elevation doors, by way of downward facing, top shrouded light fittings to minimise upward light leak. These would be halogen units switched from within the premises and not detector type lights which can trigger out of hours. It would be prudent of the Council to ensure that any lighting used in this countryside location be designed so as to avoid light spillage from the site and the design, placement, shielding and luminosity of it be subject to the prior approval of the Planning Authority. This can be made conditional on the grant of planning permission.

The proposed CCTV cameras are shown as mounted on the west (rear) elevation of the building and on a pole positioned in the southeast corner of the site. They would be oriented to record the compound within the site and the existing access road into the site. The proposed cameras so oriented would not be direct towards any residential property and would not harm the privacy of residents.

In the applicant's statement it is set out that they would be mounted to comply with the relevant provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. However, no details are given of the height of the proposed pole on which two cameras would be mounted. It would be prudent for the Council to require that the details of this be submitted for prior approval, which can be required by a condition on the grant of planning permission.

On the above considerations of visual and landscape impact, residential amenity and impact on trees, the proposed development is consistent as relevant with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and with Policy DP2, DP12 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposals. They raise no concerns in respect of the impact on the local road network or in terms of parking provision. They are satisfied with the proposed access arrangements subject to the first 10 metres of the access road being hard formed and the proposed gates opening into the site and not outwards to the public road. These matters can be made conditional on the grant of planning permission.

On these Transportation considerations the proposals are consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

Matters of drainage and pollution control, including oil pollution, are subject to regulation by the Scottish Environment Protection Agency. They are subject to legislation other than planning legislation.

CONDITIONS:

- 1 Development shall not begin until a scheme of landscaping of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of all hedges, trees including large species trees and shrubs to be planted including sizes, species, habitat, siting, planting distances and a programme of planting. This shall include infill planting around the site access hereby approved;

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development and to mitigate for the loss of trees at the access.

- 2 Prior to the commencement of development the trees adjacent to the site access and fence hereby approved that are to be retained shall be protected by fences of a type and in positions in accordance with BS5837:2005 and in accordance with details to be submitted to and approved in advance by the Planning Authority.

The construction of the proposed fence shall be carried out in accordance with the method statement docketed to this planning permission, other than that all digging within tree root protection areas shall be carried out by hand and not by auger as stated.

Reason:

To ensure the retention of trees important to the visual character and amenity of the area.

- 3 Prior to any use being made of the access hereby approved the access road shall be hard formed for at least 10 metres from its junction with the south side of the C139 road.

Otherwise the access, parking and turning arrangements shall be as detailed in drawing No: 173-PL-03 docketed to this planning permission and shall thereafter remain in such use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.

- 4 Gates shall be installed only so as to open inwards into the site and not outwards to the public road.

Reason:

In the interests of road safety.

- 5 Prior to the erection on site of any pole for the mounting of CCTV cameras, details of its positioning, height and materials shall be approved in writing by the Planning Authority and shall thereafter be erected in accordance with the details so approved.

Reason:

In the interests of the visual amenity of the area.

- 6 Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

Reason:

In the interests of the amenity of nearby houses.

- 7 Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation purposes.

Reason:

In the interests of the amenity of residents of nearby houses.

- 8 The Rating Level, LArTr, of noise emanating from the premises when measured 3.5m from the façade of any neighbouring residential property, shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 1997 Method for rating industrial noise affecting mixed residential and industrial areas.

Reason:

In the interests of the amenity of residents of nearby properties.

- 9 No outside storage shall take place within the site without the prior written consent of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 10 Details of all external lighting, including any movement sensitive lighting, proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection. The lighting shall be designed, positioned, oriented and shrouded to ensure that no light from within the site spills beyond the boundaries of the site area.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.