

# Appendix 1

Development and Conservation Control Committee – 4 September 2002

14. S/1133/02/F - OVER  
VARIATION OF CONDITION 2 OF PLANNING PERMISSION S/0894/00/F TO  
ALLOW 0730 HOUR START ON WEEKDAYS AND SATURDAYS, RIVERVIEW  
FARMYARD, OVERCOTE ROAD FOR MR M J NORMAN

Members will visit the site on the 2<sup>nd</sup> September 2002.

## SITE AND PROPOSAL

Riverview Farm is located at the western end of Overcote Road, to the east of the Great Ouse. The farmyard and farmhouse are situated on the southern side of the road, almost opposite three bungalows, Greenfields, The Bungalow and Riverside. The farmyard consists of a series of former agricultural buildings of different sizes and styles erected over a number of years and arranged along the eastern boundary of the site. The majority of the buildings are used for commercial purposes pursuant with a planning permission granted in November 2000.

The full application, received on the 29<sup>th</sup> May 2002, proposed a variation to Condition 2 attached to the 2000 consent, allowing a 0700 hours start on weekdays and Saturdays instead of the 0800 hours conditioned. The application was amended by letter dated the 8<sup>th</sup> July 2002, proposing a 0730 hours commencement on weekdays and Saturdays, ie an extra half an hour time extension in the mornings.

## PLANNING HISTORY

Planning permission (part retrospective) was granted to change the use of the majority of the agricultural buildings on site to B1/B8 use in November 2000, following a site visit by Members (Item 12 – November 2000 – see Appendix). The remaining building at the southern end of the site was granted a retrospective planning permission for an engineering business earlier the same year. In February 2001 the occupiers of Unit 5 were given a 9 month temporary consent to operate from 7.00am on the site Monday-Saturday (Item 23 – 7<sup>th</sup> February 2001). The firm has since left the site.

## PLANNING POLICY

Policy ES6 of Deposit Local Plan (as amended 2001) states the Council will seek, by means of appropriate planning conditions, to minimise the impact of noise and pollution on noise sensitive development arising from industrial, commercial or recreational activities.

## CONSULTATION (amended hours)

Over Parish Council approves the application.

The Chief Environmental Health Officer objects

“The applicant accepted the current times of operation on the site when permission was granted on the 6<sup>th</sup> November 2000.

The current time restriction imposed on the site is to minimise disturbance to neighbouring residential properties. This condition acts as a buffer to ensure that only low-key, low impact and compatible activities that are able to operate within the times specified are carried on at the site. The time condition included is less onerous than that specified for the carpentry shop at 8 Church End, Over (S/1696/99/F) which includes a boundary noise level, and is consistent with the times specified in all new planning applications.

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There are no suitable controls within the current planning permission other than the time restrictions to protect nearby residents from the effect of any change in activity on the site. It is also likely that any change to the operating time will have the effect of attracting larger and more unsuitable businesses to the site. It is therefore my view that the current application relates to intensification in the use of the site outside what the permission was granted for.

Video evidence has shown that noise emitted from the front of the site and traffic entering the premises can be a problem. Nearby residents also claim that Corney Heating and Plumbing Services and Carlton West Building Services are already entering the site before the permitted times.

I understand that the application has been submitted to allow small local businesses currently operating from the site to work without undue restrictions; I am sympathetic to this request, however the times of use for the site should have been explained to them before they took up tenancy.

I am concerned that once an extension in the operating times has been granted, there are no planning restrictions to prevent an increase in noise or traffic using the site. Consideration should also be given to what would happen with the whole site in the future should it obtain extended opening times. For example, should the site be sold with B1-B8 use could we prevent a distribution firm from operating from the site?

Should planning committee decide to grant permission I would ask that they consider operating hours of 07.30-18.30 Monday to Friday and 08.00-13.00 on a Saturday, and not at all on Sundays or bank holidays. I would also ask that any permission granted is temporary in order that the impact from these changes or any future changes in the business on the site can be reviewed if necessary.

I would also ask that any permission granted contain the following conditions:

No amplified music from vehicle stereos or other sources should be played on site.

No vehicles should be left unattended with their engines running.”

## REPRESENTATIONS (amended hours)

Letters of objection have been received from the 3 bungalows on the opposite side of Overcote Road. The main points are:

1. It is imperative nearby residents are protected from excessive noise and disturbance. The site is intensively used and existing problems with noise disturbance have been experienced. Allowing an earlier start will mean more early morning disturbance if approved.
2. Video evidence is available of noise generated on the site.
3. The plumbing firm (C.H.A.P.S) has 4 vans which have accessed the site before 8.00am

A further letter has been received from the owners of Chain House, a property situated on Overcote Road to the east of the application site. Whilst not objecting to the application, concern is expressed about the current use through noise disruption and safety of an increased number of lorries on a narrow country road. Speed restrictions are suggested.

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## ADDITIONAL COMMENTS BY THE APPLICANTS

The applicant's agent states there is no evidence put forward by the Council's Environment Health Officer to support his contention that "an extension of time will materially interfere with nearby residents." There is no substantial evidence that this use is causing local concern. The comments made by nearby residents do not raise material planning considerations. Traffic generation is not significant, being largely dictated by the size of the area and the number of employees. Traffic movements will inevitably be the same, whether employees arrive at 7.45am or 8.00am. The proposed amendment is defined in its narrowest terms to allow employees to occupy the units without the threat of enforcement proceedings.

The applicant is concerned about the reliance of video evidence which they have not been shown. The change of use of the barns has been a substantial financial investment and the applicant is very selective in the companies using the facilities. They are all small businesses. Some only come into the yard for an hour a day and only generate small van usage. The biggest problem they have is that they need to be able to enter the yard before they start work at 8.00 am. An early start enables the drivers to avoid congestion of the A14.

The immediate neighbours who are objecting to the revised hours leave for work between 6.50 am and 7.10 am most mornings. One neighbour keeps the site under surveillance from 6am-10pm, and attempts to canvass other objections from Overcote Road and High Street have proved unsuccessful.

## PLANNING COMMENTS

Since planning permission was granted for the change of use of farm buildings to B1/B8 use in November 2000 there have been a large number of complaints principally from two residents in the neighbouring houses on the opposite side of Overcote Road. These have consisted of allegations of noise disturbance, out of hours working, the carrying out of works without planning permission, and failure to comply with the conditions of the planning permission. The complaints have been investigated by both the Environmental Health Officer and the Enforcement Officer, involving numerous site visits and meetings. All these matters have been investigated and the Council's officers have worked with the site owner and tenants in an endeavour to resolve what has become a serious neighbour dispute between the parties extending beyond the planning legislation. The most intractable problem has been the question of early morning starts breaching the conditioned 0800 hours commencement. The situation is complicated because an engineering company at the southern end of the site (ie. furthest from the neighbours) has an unrestricted planning permission and does enter the site with vehicles before 0800 hours. Also farming activity still takes place on the site in much reduced form and is not subject to any restrictions.

In September 2001, the Planning Director wrote to one of the objectors and stated that as a result of the Enforcement Officer's monitoring, it was observed that a large proportion of the "out of hours" vehicle movements related to the engineering company and the agricultural use. One company that had found it difficult to operate within the prescribed times had moved from the site. On the basis of this monitoring a breach of condition notice was not considered justified.

The intensity of complaints about out of hours working increased again in June this year when a plumbing firm with a number of vans moved into a unit on the site. Video evidence shown to the Enforcement Officer confirmed pre-0800 access to the

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site. It is understood the firms' vehicles are now parked on the road until the site opens.

The Chief Environmental Health Officer opposes any relaxation of the 0800 hour start. There are no boundary noise limits on the site and this is the only effective means of control. The stipulation of an 0800 hour start is consistent with the condition applied in recent times to all similar application in close proximity to residential properties.

Whilst appreciating the applicant's desire to regularise a source of regular complaint about the operation of his site, I am also conscious of the Chief Environmental Health Officer concerns about the effect of any relaxation of hours on the current and future development of the site, and on balance consider the reason for the condition is well founded and that it should be retained in its current form.

### RECOMMENDATION

Refusal (as amended by letter dated the 8<sup>th</sup> July 2002).

The variation of Condition 2 to allow a 07.30 start of work on weekdays and Saturdays would result in the likelihood of increased noise and general disturbance to the residents of the three bungalows known as Greenfields, The Bungalow and Riverside, contrary to Policy ES6 of the Deposit South Cambridgeshire Local Plan (as amended 2001) which seeks, by means of appropriate planning conditions, to minimise the impact of noise on residential areas.