

Application Number: 18/10781 Variation / Removal of Condition

Site: UNIT 2, RICARDO WAY, BOLDRE SO41 8JU

Development: Variation of conditions 10 & 11 of Planning Permission 11/97309
to allow opening and delivery times between 07:00 to 20:00
Monday to Saturday (including bank holidays) 09:00-17:00
Sundays

Applicant: Toolstation Ltd

Target Date: 05/09/2018

Extension Date: 12/09/2018

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Richard Natt

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council View

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

- 1. Special qualities, local distinctiveness and a high quality living environment
- 4. Economy
- 7. The countryside

Policies

CS2: Design quality
CS17: Employment and economic development
CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

LYM07: Ampress Park, Southampton Road

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Lymington Local Distinctiveness

SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 De-culverting and re-routing of Passford Water, and erection of a building (Units 1-3) to be used for trade counter uses (within Classes B1c & B8) and a building (Unit 4) to be used as a builders merchant including outside storage, along with access, parking and servicing (11/97309) - granted 17/1/12

6.2 Use for the storage, distribution and sale of hard wall and floor finishes and associated products - sui generis (17/10544) Granted with conditions on the 19th July 2017

7 PARISH / TOWN COUNCIL COMMENTS

Boldre Parish Council: recommend refusal. In view of the proximity of the residential area to this unit and bearing in mind that the two adjacent units have restricted opening times, it is felt that the existing restrictions should be retained.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Environmental Health (Pollution): No objection subject to condition

This application has been reviewed along with the Noise Assessment submitted with the application. The site is orientated in a way that allows the buildings and the acoustic fence to provide some protection to the residential properties situated behind the unit. In particular the position of the delivery roller shutter door part way down the building minimises the impact of deliveries on nearby residential uses.

With regard to the extended opening and delivery hours, the noise report shows that noise from the alterations would be well below the existing background level, and accordingly, they have no objections to this part of the proposal.

9.2 Southern Water: no objection.

10 REPRESENTATIONS RECEIVED

1 letter of objection concerned that there is enough noise from the Ampress site in normal hours to extend it to outside normal hours plus bank holiday would be unacceptable. Planning conditions were imposed on the original consent to minimise impact on residential amenity and should be adhered to.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

The originally submitted planning application proposed to vary Condition 11 to allow 24 hour deliveries. In light of the concerns raised, the applicant has removed the 24 hour delivery and now proposes that the delivery times to be the same as the proposed extended opening hours.

14 ASSESSMENT

14.1 The site and planning history

14.1.1 The application site forms the middle section of a 3 unit building that was granted planning permission in 2012 under reference 11/97309. The unit in question has permission to be used for trade counter uses and uses falling within Use Classes B1(c) and B8. The unit is currently used by Toolstation. It should be noted that while planning permission was granted in 2017 to use the unit (now subject to this current application) for the storage, distribution and sale of hard wall and floor finishes and associated products - sui generis (under reference/10544) - this has not

been implemented. Accordingly, the current user and applicant, Toolstation, are operating in accordance with the planning permission granted in 2012 under reference 97309.

- 14.1.2 This current planning application seeks consent for the variation of conditions 10 and 11 of planning permission 97309, which relate to opening hours and delivery times. The conditions are set out below:

Condition 10 of planning permission 11/97309

The development hereby approved shall not operate outside the hours of 07:30 to 18:00 hours on Monday to Friday and 08:00 to 12:00 hours on Saturdays and shall not operate at all on Sundays and Public / Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

Condition 11 of planning permission 11/97309

No deliveries shall take place other than between the hours of 07:30 to 18:00 hours on Monday to Friday and 08:00 to 12:00 hours on Saturdays and there shall be no deliveries at all on Sundays and Public / Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

- 14.1.3 It should be noted that when planning permission was granted under 17/10544, the time restrictions were slightly extended, but the delivery hours were unchanged. That permission was never implemented. The hours of use that were eased enabled the unit to operate all day Saturday until 18:00, rather than the original permission which was up to 12:00. In addition, the unit could operate during the day (between 9.00 and 17.00) on Sundays including public holidays. This shows that the principle of extended opening hours at this site has been established.

14.2 The proposal

- 14.2.1 This application seeks consent to vary conditions 10 and 11 of planning permission 11/97309 to allow the current user of unit 2, Toolstation, to start operating with longer opening hours and extended times for deliveries, including Sundays and Bank Holidays.
- 14.2.2 The proposed re-wording of conditions 10 and 11 would allow unit 2 to be open to the public and available for deliveries between 07:00 to 20:00 hours Monday to Saturday (including Bank Holidays) and between 09:00 and 17:00 on Sundays. This would effectively mean that the opening and delivery hours are extended 30 minutes earlier in the morning and an extra two hours until 20:00 Monday to Friday and including Saturday afternoon and early evening. The proposed variation would also mean that the unit would be open on Sundays and Bank Holidays during the day. Car parking and loading locations are as existing.

14.2.3 In support of the planning application, it is stated that the main purpose is to provide clarity on the permitted opening hours for unit 2 and the hours where deliveries can take place and to provide consistency in maximum opening hours with Toolstation units nationwide.

14.2.4 The supporting statement sets out that Toolstation is a UK wide subsidiary of Travis Perkins plc with 300 outlets across the UK and specialises in the sale of power tools and accessories, hand tools, screws and fixings decorating materials, plumbing/ heating and electrical supplies, work clothing and other products associated with building/ DIY. Each unit stocks approximately 10,000 catalogue products and serves predominantly the building industry, although Toolstation do accept trade from private customers. As a result of occupying this unit, Toolstation employ between 5 and 8 full time staff and expect no more than 4 members of staff to be on site at any one time.

The application is accompanied by a noise assessment report, which concludes that the applicant would be able to trade for the proposed additional hours without causing disturbance or adverse impacts to nearby residents.

14.3 Assessment

14.3.1 In policy terms, Core Strategy Policy CS17 relates to employment and economic development. The aim of the strategy is to make better use of existing employment land and encourage intensification of existing employment sites and to generally keep all existing employment sites. Policy LP-7 of the Local Plan is a site specific policy and is also applicable, which allocates the Ampress site for Industrial/office/business development in accordance with Core Strategy Policy CS17. The policy requires new development to respect the location of the site adjacent to the National Park, and the Lymington River SSSI.

14.3.2 Given that the application seeks to extend hours and allow greater flexibility for the operations of the business, it is considered that the proposals fully accord with these policies. Moreover, given that there is no change to the use of the unit, which simply seeks to continue to operate unit 2 in accordance with the lawful use, the variation of the conditions accord with employment policies.

14.3.3 The National Planning Policy Framework (NPPF) states that there is a presumption in favour of sustainable development which has three dimensions, namely: economic, social and environmental. The Government is committed to ensuring that the planning system supports sustainable economic growth. At the same time the NPPF seeks to promote safe and accessible environments; improved conditions in which people live, work, travel and take leisure; and avoid noise from giving rise to significant adverse impacts.

14.3.4 The main issue in this case is whether the variation in the conditions would lead to an unacceptable impact on the amenities of the neighbouring properties.

14.3.5 The application site lies at the northern end of the Ampress Business Park. There is a public footpath which bounds the site on its northern and eastern sides. Beyond this footpath to the north are a number of

residential properties set at a higher level than the application site. The main A337 bounds the site to the west from where the site is clearly visible. There is a watercourse which runs to the rear of the site, which is largely culverted for most of its length through the site. While the site lies within the Built-up area, it is bounded by the National Park to the north, and east. To the south of the site lies the more central part of Ampress Business Park which includes large buildings used as B1 and B8 uses, including petrol filling station. It is noted that the petrol station is open all week and 24 hours, which is likely to generate traffic movement throughout the day and night.

- 14.3.6 The submitted acoustic report states that the cumulative noise levels (i.e the sum of access road and car parking activity noise) will be very low. The report states that comparing these levels with the existing noise climate indicates that the noise levels generated by the proposal would be some 20dB below the existing noise climate at any time during the proposed hours, even based on peak hour activity in the nearest possible car parking location to the neighbouring residential properties. The submitted acoustic report concludes that Toolstation could trade on this site for the proposed additional hours on weekday mornings and evenings, Saturday afternoons and all day Sunday and bank holidays without causing disturbance or adverse impacts to nearby residents.
- 14.3.7 The delivery process involves the arrival of an articulated HGV which manoeuvres to unloading position, which includes reversing alarms, and this takes 2 minutes. The unloading of metal cages is carried out via a tail lift and wheeling cages into the unit, which takes around 20 minutes. The HGV departure takes less than one minute and involves engine starting and moving off. The delivery area serving the unit would be approximately 50 metres from the properties to the north, with a similar level of screening resulting from the buildings and acoustic barrier. The noise report concludes that a single delivery received would not lead to an adverse impact in the context of the existing noise environment.
- 14.3.8 There is a single access into the Ampress Business Park from the A337 which is off a roundabout. From the roundabout, the application site is accessed about 90 metres from Ricardo Way, in which there is a large area of hardstanding used for access and car parking. The subject building lies to the north of the hardstanding and has been designed so that all main openings face away from the residential properties to the north of the site, to help minimise the impact of noise on these residential properties. Indeed, the overall design and layout of the building, subject to this application was to provide quite an effective barrier to noise from activities on the application site.
- 14.3.9 The Environmental Health Officer does not raise any objections to the proposal to extend the opening trading hours and the delivery times and considers that having regard to the location of the site there is likely to be a considerable amount of road traffic and activity on the estate and in the area during the early evenings Monday to Saturdays and Sundays. Indeed, the petrol filling station which is located nearby is open 24 hours Monday to Sundays, which is likely to generate a significant amount of noise. The Environmental Health Officer concludes that the submitted noise report from the alterations would be well below the existing background level and accordingly they have no objection.

14.4 Conclusion

- 14.4.1 In summary, while the proposal would result in a modest amount of additional noise and disturbance for residents, it would not cause material or unacceptable harm to their living conditions. In view of this, any negative impacts caused would be materially outweighed by the benefits that would result from the extended hours. The development would satisfy the economic, social and environmental dimensions of sustainable development. Indeed, the proposal has the potential to increase local employment, provide a broader service for local builders and tradesmen. These factors weigh in favour of the scheme.
- 14.4.2 Accordingly, on the main issue the proposal would not have a materially adverse impact on the living conditions of any local residents due to additional noise and disturbance. The scheme would therefore comply with Policy CS2 which seeks to ensure that developments do not cause unacceptable effects for residents. It would similarly comply with the NPPF.
- 14.4.3 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution			
Habitats Mitigation			
Financial Contribution			

15. RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans: 1418913/L, 1418913/SP, 1418913/B.

Reason: To ensure satisfactory provision of the development.

2. The development hereby approved shall not operate outside the hours of 07:00 to 20:00 hours on Monday to Saturday (including Bank Holidays) and 09:00 to 17:00 hours on Sundays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

3. No deliveries shall take place other than between the hours of 07:00 to 20:00 hours on Monday to Saturday (including Bank Holidays) and 09:00 to 17:00 hours on Sundays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The combined Rating Level of noise emitted from activities on the site and from fixed plant and associated equipment shall not exceed the Background Noise Level (LA90) at any time, as measured at 3.5 metres from the façade of the nearest noise sensitive premises and shall be made in accordance with BS4142:2014.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National

5. No external lighting shall be installed on the north elevation of the building unless details of the position, size and type of lighting to be installed have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to minimise impact on ecological interests in accordance with policies CS2 and CS3 of the Core Strategy for New Forest District outside the National Park.

6. No window, door or rooflight openings shall be formed in the north elevation of the building, other than those shown on the approved plans, unless express planning permission has first been granted.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New

Forest District outside the National Park.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

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Planning Development Control Committee

September 2018

Item No: 3e

Unit 2

Ricardo Way
Lymington
18/10781

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.

