

Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 JANUARY 2017

DEV/FH/17/001

Report of the Head of Planning and Growth

**PLANNING APPLICATION DC/16/0465/FUL – PLOTS 9-11 ST LEGER DRIVE,
NEWMARKET**

Synopsis:

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

CONTACT OFFICER

Gary Hancox
Email: gary.hancox@westsuffolk.gov.uk
Telephone: 01638 719258

Committee Report

Date 02.03.2016 **Expiry Date:** 01.06.2016

Registered:

Case Officer: Gary Hancox **Recommendation:** Approve

Parish: Newmarket **Ward:** Severals

Proposal: Planning Application DC/16/0465/FUL – Single storey B2/B8 industrial units and associated external works (Resubmission of DC/14/2218/FUL)

Site: Plots 9-11, St Leger Drive, Newmarket

Applicant: CI Industries Ltd.

Background:

This application is referred to the Development Control Committee because the Officer recommendation of APPROVAL is contrary to the views of the Town Council.

It is a major application and has also generated significant local interest.

Proposal:

1. Planning permission is sought for the erection of industrial buildings to accommodate B2 General Industry and B8 Storage and Distribution uses on St Leger Drive in Newmarket. The proposal also includes associated office floor space, car parking, service yards and landscaping.
2. The site has an overall area of 1.33 ha and originally, a single building with a gross internal area of 5,598 sq. m was proposed. The plans have now been amended and propose two smaller commercial units:

UNIT A = 2098m² GIA (11 metres to ridge, 8.25 metres to eaves)
UNIT B = 3226m² GIA (10.9 metres to ridge, 7.5 metres to eaves)
3. Taking into account the sloping nature of the site running west to east, the finished floor level (FFL) of the buildings will be generally lower than the adjoining road level. For example, Unit A would have a FFL of between 1.5 metres and approx. 0.75 metres below existing ground level when viewed from the road.

Application Supporting Material:

4. Information submitted with the application as follows:

- Proposed elevations and plans
- Planting Plan
- Flood Risk Assessment
- Noise Impact Assessment
- Transport Assessment
- Tree Survey
- Street Elevations
- Design and Access Statement

Site Details:

5. The site lies within the built up area of Newmarket towards the northern boundary of the town. The surrounding land is mainly mixed industrial and commercial to the south, east and west of the site, with residential development to the north. The site is currently vacant. It has previously been used to deposit excavation spoil from previous developments in the vicinity and has re-vegetated with native plant life.
6. The northern boundary of the site lies parallel to Studlands Park Avenue which is a residential road with no through access and no access to the site. The boundary of the site with the road is predominantly lined with established indigenous poplar trees, some of which are in decline, and the occasional ash and hawthorn which forms an informal shrubby hedge. The boundary planting whilst established is sporadic in nature with gaps.
7. To the west of the site, is plot 8 St Leger Drive, which is an industrial unit with planning permission for B1, B2 and B8 use. It has recently been completed and occupied. To the east lies Studlands Retail Park. The rear of these units and adjacent service yards face onto the proposed site. The boundary is designated by a concrete post and chain link fence.
8. The southern edge of the site forms the boundary with St Leger Drive. It currently has large bunds at the edge to prevent vehicular access onto the site. The Smiths News and Taylor Wimpey buildings occupy the plots on the opposite side of the road.
9. The site is located approximately 3.0 miles north from Newmarket Railway Station and 2.0 miles from Newmarket town centre. There are bus stops for local bus routes within walking distance to the site (Fordham Road and Studlands Park Avenue) and it lies in close proximity to route 51 of the national cycle network and other minor local cycle routes.
10. The Fordham Road/A14 junction lies in close proximity to the site to the north beyond the Studlands Park residential area.
11. The site is allocated as 'Employment Land' under a saved policy dating back to the Local Plan 1995.

Planning History:

12.DC/14/2218/FUL Planning Application - B2/B8 warehouse and distribution centre Application Refused 05.11.2015 – APPEAL DISMISSED 01.09.2016

Consultations:

Public Health and Housing – No objection, subject to appropriate conditions, including hours of construction, no outside generators, noise limits, deliveries restricted to between 07:00 and 19:00 Mondays to Saturdays, as well as hours of use to be agreed prior to first occupation.

SCC Highways - No objection, subject to conditions, including the requirement for a Travel Plan.

SCC Archaeology – No objection, subject to appropriate conditions.

Environment Agency – No objection.

Anglian Water – No objection, subject to appropriate conditions.

Representations:

Newmarket Town Council:

Object

- Overlooking / loss of privacy
- Loss of daylight / sunlight and overshadowing
- Scale and dominance
- Impact on character and appearance of the area
- Effect of trees
- Previous Planning decisions not different enough to previous rejected application.
- Traffic and parking issues
- Impact on Community

Ward Member:

- 'These plans have basically split the unit in 2, put the loading bays at either end so the noise will be significant for the residents, the 3.5 metre fence will only channel the sound down to where the fence stops so creating a corridor of sound and the height of the units are still way taller than the other units on the estate. I, along with many other residents, do not understand why it is that the office buildings that would up-lift the look of Studlands have been built near to Tesco where no-one can see them and we are being subjected to horrendous applications of monstrosities that should only be considered on the outskirts of a major cities with large rail links and a port.

- The building is only scaled down 4.5% from the original plans and will definitely have a detrimental effect on the residents of Studlands. The building is still not a suitable size building for this size of industrial estate mixed housing estate. The roads are narrow, there is little parking, there would be more employment potential if offices were put up rather than shells of buildings only capable of housing forklift trucks and robots.
- The lorries are already struggling along this small back road, the roundabout is getting churned up and the number of lorries that take a wrong turn and travel through the estate is now verging on dangerous for residents.
- This is a small industrial area, lets provide offices or appropriate sized units to reflect this. The fact that this unit is not on one site but covers 3 shows how inappropriate it is.
- The fact this unit 9 - 11 is so tall it will block all sun light throughout the winter due to the lower sun shows again how inappropriate it is.
- The fact this unit 9 -11 has had to go back to the drawing board and cut itself into 2 but basically stay the same again shows how inappropriate it is. I hope that it will be the case that this is refused as an overbearing building that has a detrimental effect on the people that are already living in this area.
- I hope that in the future what is built will be built with the residents in mind rather than the other way around.'

Local Residents:

A total of 60 letters of objection received

- Buildings are too large, too close to the road and the houses opposite
- 24/7 operational hours should not be allowed
- Two buildings will create additional noise
- Unattractive buildings that will cause harm to the character of the area
- Could lead to parking on Studlands Park Avenue
- Delivery areas should be away from adjacent dwellings
- Buildings should be brick built
- Enjoyment of houses and gardens will be lost
- Buildings will have a detrimental impact on the visual aspect and atmosphere of the entry to the housing estate

(Note: the above is only a summary of the key objections to the development from local residents. The full objections can be viewed on the Council's website.)

Policy: The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

13. Joint Development Management Policies Document:

- Policy DM1 – Presumption in Favour of Sustainable Development.
- Policy DM2 – Creating Places – Development Principles and Local Distinctiveness.
- Policy DM6 – Flooding and Sustainable Drainage.
- Policy DM7 – Sustainable Design & Construction
- Policy DM14 – Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards.
- Policy DM20 – Archaeology.
- Policy DM45 – Travel Assessments and Travel Plans.
- Policy DM46 – Parking Standards.

14. Forest Heath Core Strategy 2010

- Policy CS1 – Spatial Strategy.
- Policy CS5 – Design Quality and Local Distinctiveness.
- Policy CS6 – Sustainable Economic and Tourism Development.
- Policy CS12 – Strategic Transport Improvement and Sustainable Transport.

Other Planning Policy:

15. The National Planning Policy Framework (NPPF) sets out Government's planning policies for England and how these are expected to be applied. The following paragraphs are particularly relevant in this case – paragraphs 8, 14, 19, 32, 61, 64, 128, 141.

Officer Comment:

16. The issues to be considered in the determination of the application are:

- Principle of Development
- Appeal Inspector's decision in respect of application DC/14/2218/FUL
- Design and layout
- Amenity

Principle of Development

17. Core Strategy Spatial Objectives ECO 1 and ECO 2 seek to attract high quality economic development to the district and diversify Forest Heath's economy to create a strong competitive area. This transfers through to Core Strategy Policies CS1 and CS6, which allocates approximately 5 hectares of employment land to Newmarket.

18. These objectives accord with the Government's commitment to ensure that the planning system does what it can to support sustainable economic growth as set out in the NPPF. Paragraph 19 states that "planning should operate to encourage and not act as an impediment to sustainable growth, therefore significant weight should be placed on the need to support economic growth through the planning system"

19. The site is currently vacant, however it lies within an area identified for employment use and is formally allocated as such by the 1995 Local Plan. In these circumstances, Core Strategy Policy CS6 and DM30 of the Joint Development Management Policies Document, which seek to protect and safeguard employment land for employment uses are relevant in the consideration of the application.
20. The site lies within the settlement boundary of Newmarket, within an area which already contains a mix of industrial and commercial uses and there is considerable policy support for the proposal. As a result it is accepted that a proposed B2/B8 use in this location is acceptable in principle.

Appeal Inspector's decision in respect of application DC/14/2218/FUL

21. This appeal was against the decision of Forest Heath District Council to refuse planning permission for a B2/B8 warehouse and distribution centre on the site. The appeal was dismissed, and the Inspector's decision is a significant material consideration in the determination of this revised application. The building proposed had a gross floor area of 6,720 square metres, and measured 123m in length and 45m in width with a ridge height of 13.5m and an eaves height of 11m.
22. In dismissing the appeal, the Inspector accepted the principle of the development and attached significant weight in favour of the economic and social benefits locally in terms of employment and increased spend. He then assessed the impact of the development on the character and appearance of the area, and on the living conditions of occupiers of Studlands Park Avenue. The Inspector concluded that;

"...the poor quality of the proposed building, due to its large unrelieved scale and mass would cause considerable harm to the character and appearance of the area. This would be contrary to the development plan and the Framework which both seek high quality design. As paragraph 64 of the Framework notes, permission should be refused for poorly designed development that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These considerations are of considerable weight against the appeal.

Having regard to all of the matters raised, I conclude that any presumption in favour of the development is clearly outweighed by the degree of harm that the proposal would cause to the character and appearance of the area. As a result, the proposal would not constitute a sustainable development."

23. In respect of the character and appearance impact, the Inspector was particularly concerned with the sheer size of the proposed building without any break or relief on the roof, stating that

"The great monotonous length of this tall, unrelieved elevation would dominate and enclose the Avenue and would be distinctly out of

keeping with its pleasant residential character.”

24. Although the visual impact of the building when viewed from St Leger Drive was felt to be acceptable, in relation to Studlands Park Avenue, the Inspector felt that the proposed development would constitute poor design that would unacceptably harm the character and appearance of the area, contrary to policy DM2 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (JDMPD).
25. In respect of noise impact, outlook and living conditions for residents of Studlands Park Avenue and Vincent Close, the Inspector concluded that there would be sufficient separation for this outlook from within the front of these dwellings so as not to be oppressive or overbearing. In respect of Vincent Close, the Inspector also concluded that given the significant separation distance that would exist across the Avenue, an acceptable outlook would be provided.

Design and Layout of the amended scheme

26. The applicant's have sought to address the concerns raised in the Inspector's decision, and in particular have attempted to reduce the amount of unrelieved elevation through splitting the building floor space up into two separate units. The buildings have also been reduced in size and unit B has been moved further away from the road. The differences between the original scheme and the amended scheme can be summarised as follows:

Original building:

Gross Internal Area (GIA) 5598m² (12.97 metres to ridge, 10.5 metres to eaves, 8.3 metres to eaves measured outside the site)

Revised scheme:

UNIT A – GIA 2098 m² (11 metres to ridge, 8.25 metres to eaves, 6.75 metres to eaves measured outside the site)

UNIT B – GIA 3226 m² (10.9 metres to ridge, 7.5 metres to eaves, 6 metres to eaves measured outside the site)

27. The revised scheme therefore proposes a reduction in floor area of 274 m², a ridge height reduction of 1.97 metres, and eaves height reduction of 2.25 metres for Unit A and 3 metres for Unit B.
28. The area available for landscaping has also increased at the east end of the site from 6 metres in depth to 9 metres in depth. This planting area will enhance the current partial screening to the buildings from Studlands Park Avenue.
29. The other major change to the scheme is that Unit B is re-located to occupy the east end of the site, adjacent the superstore building. The service yard area is relocated to the west side of the building. This results

in the two buildings having open areas in between them, reducing the bulk and continuous mass of the previously proposed single building.

30. The splitting of the original single very large building into two smaller, albeit still large buildings, has significantly reduced the dominance within the street scene, and allows for gaps between the structures breaking up its mass and bulk. The buildings are still large, but critically there is no longer a continuous elevation to the street frontage. The increase in the landscaping strip to the eastern end of the site also represents an improvement in the scheme, and will allow for more successful planting areas with an increased screening effect.
31. In terms of sustainability of construction, the proposed development has been designed to incorporate sustainability initiatives and reduce the buildings energy consumption. These initiatives are driven primarily by statutory requirements. Initiatives to achieve this include: a waste management plan, low energy lighting, roof lights (to minimise the lighting requirement), improved energy metering, low flush WC's, low carbon monoxide heating and cooling systems and PV panels to south facing roof slope. Due to the inherent constraints of the site, it is not possible to achieve all the mandatory credits for an 'excellent' rating under BREEAM. This is acknowledged, and the application is considered to generally accord with Policy DM7 in this regard.
32. The above changes are considered to be a significant improvement to the scheme, and result in a design and layout that better takes account of the site's location close to a residential area, and provides opportunities for significant landscaping to help soften the edge of the development and to enhance biodiversity. The amended scheme now accords with Policy DM2 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (JDMPD) and the NPPF in this regard.
33. With Unit B being several metres further away from Studlands Park Avenue, the separation distance between the this building and the dwellings on the opposite side of the road is also increased, further reducing any potential overbearing impact. Amenity is addressed in the following section.

Amenity

34. In respect of the impact on the living conditions of the adjacent properties at Studlands Park that faced the building, the Inspector concluded that

'...there would, on balance, be sufficient separation for this outlook from within the front of these dwellings not to be oppressive or overbearing.'

In respect of the properties along Vincent Close, it was concluded that

'...given the significant separation distance that would exist across the Avenue, an acceptable outlook would be provided.'

In conclusion, the Inspector stated that;

'Taking all these matters into account, with regard to outlook living conditions would not be materially harmed by the proposed development. The proposal would therefore comply with policy DM2 of the JDMPD which, amongst other matters, seeks to prevent such harm.'

35. The amended scheme reduces the height of the buildings and increases the separation distance at the east end of the site. Furthermore, the location of two smaller buildings on the site results in 77-81 Vincent Close backing onto, and 30-36 Studlands Park Avenue facing the service yard areas. This situation is considered to be an improvement on the previous scheme.
36. In respect of noise, the Inspector agreed with the views of Officers that noise can be adequately controlled by the proposed acoustic fencing, restrictions on the hours of operation and limits on noise levels. The application is considered to accord with Policy DM2 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (JDMPD) and the NPPF in this regard.

Other matters

37. In reaching the conclusion below, Officers have had regard to the significant amount of objection from local residents and the comments of the Town Council. In respect of loss of outlook and impact on living conditions, officers have had to give due consideration to the conclusions of the appeal Inspector as well as a reassessment of the amended scheme. It must also be noted that the hours of use of the buildings, and the delivery hours, are yet to be agreed with the Council. Deliveries to the site can be restricted to working hours only by condition. This will further help to limit the impact of the proposal in respect of noise.
38. In terms of Highway Impact, both the original and amended schemes are adequate in terms of access and parking provision. The Local Highway Authority raises no objection to the amended application, subject to appropriate conditions and the submission and Implementation of a Travel Plan. The proposed access and parking arrangements accord with Policies DM2, DM45 and DM46 in this regard.

Conclusion:

39. The site is suitable in principle for the proposed employment use and there would be economic growth, which the Framework attaches significant weight to the planning system supporting. Such growth would have economic and social benefits locally in terms of employment and increased spend. As stated by the Inspector, these considerations were of significant weight in favour of the appeal.
40. There would clearly be a degree of harm to the street scene and character of the area due to the significant scale of the proposed buildings located at the edge of a residential area. However, as explained above, the amended proposals have reduced this level of harmful impact, and

importantly, have broken up and reduced the large unrelieved scale and mass that in the previous scheme the Inspector felt was unacceptable. The amended scheme is now considered to be more appropriate taking into account the context of the site, both in terms of the shared industrial estate and residential estate character of the area.

41. In dismissing the previous appeal on the site the Inspector gave 'significant' weight to the benefits of the scheme as well as 'considerable' weight to the identified harm to the character and appearance of the area. On balance, he felt that the level of harm outweighed the benefits of the proposed development.
42. Applying the same balancing exercise to this revised application, it is considered that the benefits of the proposal are no longer outweighed by the identified harm, and that the development constitutes sustainable development.
43. The principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

44. It is recommended that planning permission be **APPROVED** subject to the following conditions:
 1. 003 year time limit
 2. In accordance with approved plans
 3. Implementation of a programme of archaeological works
 4. Hours of construction (08:00 to 18:00 Mon to Fri, 08:00 – 13:30 Sat)
 5. No external generators used outside normal working hours
 6. Notification of the Local Planning Authority for any extended concrete pouring outside agreed hours of construction.
 7. Scheme of dust mitigation to be submitted and agreed
 8. No security lights erected on site without prior approval of the Council
 9. Noise levels restricted to 34dB (A) LA90 (1 hour daytime 07:00 – 23:00) at the boundary of the nearest residential property (that being -10dB(A) below the daytime background noise levels measured as 44 dB(A) LA90 (1 hour daytime 07:00 – 23:00 hours) in noise assessment SA-3418/rv.01) and;
 10. Shall not exceed 25.7dB (A) LA90 (15 minute night time 23:00-07:00) at the facade of the nearest residential property (that being -10dB (A) below the night time background noise levels measured as 35.7dB (A) LA90 (15 minutes night time 23:00 – 07:00 hours) in noise assessment SA-3418/rv.01.).
 11. An acoustic screen as specified in noise assessment SA-3418/rv.01 shall be installed, prior to the development being brought into use.
 12. Prior to the development being brought into use, details of the operational hours of deliveries and working on site shall be agreed in

- writing with the Local Planning Authority.
- 13.No deliveries shall be dispatched until a delivery method statement is provided detailing times of operation in the service yard including the use of roll cages has been submitted to and approved in writing by the Local Planning Authority.
 - 14.The use and movement of roll cages within the service yard shall take place between the hours of 08:00 to 19:00 Mondays to Fridays and at no other times unless agreed in writing with the Local Planning Authority.
 - 15.The light intrusion of the external lighting of the premises shall not exceed 10 lux between the hours of 07:00 to 23:00 and 2 lux between the hours of 23:00 to 07:00 at the façade of any neighbouring residential property. The main beam angle of all lights of the premises shall not be more than 70 degrees. Details of the proposed lighting to achieve this condition shall be provided to the Local Planning Authority for approval in writing. (The applicant may wish to refer to the ILP's 'Guidance notes for the reduction of obtrusive light GN01:2011).
 - 16.Details of refuse/bin storage to be agreed
 - 17.Parking and manoeuvring areas to be provided before first use
 - 18.Foul water drainage scheme to be agreed
 - 19.Permitted Development rights removed for additional floor area (including mezzanine level)
 - 20.Use restricted to B2 and B8 use only
 - 21.Development shall be implemented and operated in accordance with the Travel Plan

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O3D9B0PDFPU00>