

ITEM 7

APPLICATION NO.	15/00294/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	10.02.2015
APPLICANT	Bericote Properties Limited
SITE	Alpha Park, Electron Way, Chandlers Ford, SO53 4SA, VALLEY PARK
PROPOSAL	Erection of three detached industrial/distribution units (B1(c)/B2/B8) including access and servicing arrangements, car parking, landscaping and associated works.
AMENDMENTS	
CASE OFFICER	Rachel Illsley

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is presented to the Planning Control Committee (PCC) following a resolution made by the Southern Area Planning Committee (SAPC) on the 15 March 2016 to refuse planning permission for the scheme. This resolution is contrary to the recommendation of officers and would, in the opinion of the Head of Planning and Building, leave the Council at risk of an award of costs in the event of an appeal being lodged against such a refusal of permission.
- 1.2 The officer's report and corresponding update paper for the 15 March SAPC meeting are appended to this report as Appendices A and B.

2.0 UPDATES

Following the 15 March meeting, a further 4 letters of objection have been received, raising the following concerns:

- New proposed development is enormous
- Use as 24/7 distribution centre raises concerns
- Concern re number of vehicle movements over each 24 hour period, which could be as high as 1,000
- Will have negative impact in terms of local traffic congestion, noise and pollution
- When windows are open, noise levels associated with operations will be detrimental to residents' sleep, health, well-being and patience
- Excessive noise will be ongoing and very irritating
- Noise problems when previous business
- Worry about the impact on house prices
- Will impact lifestyle dramatically due to noise at night, pollution from lorries and people working at the site at night

2.1 Planning History

As set out in the officer's report, (Appendix A), the application site lies within both Test Valley Borough Council and Eastleigh Borough Council's administrative areas. The planning history of the site was discussed by SAPC and is set out below.

2.2 Test Valley Borough Council applications

TVS.03832 – Industrial and warehousing development (Use Classes III and X) – Outline permission granted, October 1982.

2.3 TVS.03832/1 – Access road and car park in connection with industrial development and cycleway/footpath link – permitted, May 1984.

Condition 3 of this permission stated that 'no goods, plant or material shall be deposited or stored in the open (or displayed for sale in the open) without the prior written consent of the in writing of the Local Planning Authority.

There were no conditions attached restricting the hours of operation or level of use in terms of vehicle movements of the car park area or the access to School Close.

2.4 TVS.03832/2 – Part car park in connection with industrial development – permitted, 25 April 1984.

Condition 2 of this permission stated that 'no goods, plant or material shall be deposited or stored in the open (or displayed for sale in the open) without the prior written consent of the in writing of the Local Planning Authority.

There were no conditions attached restricting the hours of operation or level of use in terms of vehicle movements of the car park area or the access to School Close.

2.5 TVS.03832/15 - Extension of existing factory premises and conversion of open area at west end of site for use as car park – permitted, Aug 2000.

Condition 7 of this permission states that 'no goods, plant or material shall be deposited or stored in the open (or displayed for sale in the open) on the site. Reason: In order to protect the amenities of the area, and/or to maintain adequate parking areas.

There were no conditions attached restricting the hours of operation or level of use in terms of vehicle movements of the car park area or the access to School Close.

2.6 This is the last planning permission granted on the site and the site is still laid out as a car park, in accordance with the plans approved under this permission. However, as noted in the officer's report, the site has been vacant since 2008, but the permission remains valid and the site could be brought back into use at any time.

2.7 Eastleigh Borough Council applications

Planning permission for the existing building on site was granted by EBC, under application 12795/4, which was approved in March 1984. This gave permission for a 'factory and access road'. There were no restrictive conditions attached to this permission, meaning that the factory can operate 24 hours a day, 365 days a year.

2.8 Planning permission was subsequently granted for the extension to the existing factory, referred to in the description of TVS.03832/15 above, under application 27892/012 – this gave permission for an 'extension to the rear of factory (4782sqm) and provision of car parking spaces to rear (332 spaces in total), and was approved in May 2000. Again, no restrictive conditions were applied in respect of the hours of operation of the building. A 'note to applicant' on the decision notice confirms the lawful use of the extension as falling within Use Class B2 of the Town and Country Planning (Use Classes) Order 1987, 'General Industrial'.

2.9 As noted in paragraph 1.3 of the Update Paper report (Appendix B), planning permission has been granted by EBC for the current mixed use development of the site, under application F/15/75988. A subsequent application to vary the approved plans to match the layout now being considered by TVBC, application X/16/78013, remains under consideration at the time of writing this report.

3.0 **PLANNING CONSIDERATIONS**

3.1 The key consideration for PCC is the resolution from SAPC to refuse planning permission, contrary to the recommendation of the Head of Planning Building. Members were particularly concerned regarding the impact of the proposed development in terms of vehicle noise disturbance and the effect this would have on the amenity of nearby residential properties. SAPC resolved to refuse planning permission on the following grounds:

'The proposed development is contrary to Policy E8 of the Test Valley Borough Revised Local Plan (2016) because the proposal would result in a large number of noisy vehicle movements in close proximity to nearby residential properties to the detriment of the quality of life and amenity of those residents.'

3.2 As outlined above in paragraphs 2.19 to 2.9, the part of the application site which lies within TVBC's area has an established permitted use as a car park to serve the existing industrial unit which has unrestricted B2 use. Although currently vacant, the site could be brought back into operation at any time, on a 24 hour, 365 days a year basis.

3.3 Members of SAPC were concerned about the potential impact to nearby residential properties as a result of noise associated with vehicle movements accessing the site via the access from School Lane to serve the proposed development and vehicle movements within the site. As noted above, permission already exists for this access to be used to serve the site,

with no limit on the number of vehicle movements per day. As set out in para 8.54 of the attached officer's report, the Transport Assessment submitted with the application states that the existing building would generate 1,035 vehicle movements per day. The proposed development would result in 982 movements per day across the site – as such, not all of these movements would be via the School Lane access as Unit 3, which lies entirely within EBC's area, is access via Electron Way.

- 3.4 As well as a reduction in the overall number of vehicular movements associated with the site, the proposed units would be positioned adjacent to the western and northern boundaries of the site, screening the access road and associate noise from the site boundaries and neighbouring properties beyond. The service yards to both Units 1 and 2 have also been amended to be fully enclosed, with a roof over each yard, with all loading/unloading/manoeuvring of vehicles taking place within these enclosed areas.
- 3.5 As set out in paragraphs 8.25 to 8.37 of the officer's report, the provision of the covered service yards is considered to be a significant improvement to the proposed site layout. The supporting noise assessment provides modelling data based on worst case scenarios of vehicle movements and the Council's Environmental Health Officer has raised no objection to the proposals on noise impact grounds. Detailed conditions are recommended by officers to control any potential noise disturbance from reversing alarms, as well as break out noise and odour generating activities.
- 3.6 When considering the fall back position of an unrestricted industrial use on the site, it is considered that the proposed development would result in an improved situation for neighbouring properties in terms of noise, with a reduction in overall vehicle movements, the acoustic screening provided by the positioning of the units themselves and the enclosure of the service yards and the restrictive conditions to minimise any disturbance associated with the use of the buildings.

4.0 **CONCLUSION**

- 4.1 In light of these considerations, officers remain of the opinion that in light of the significant amendments made to the development in terms of the proposed site layout with the addition of the enclosed, covered service yards to Units 1 and 2 and the acoustic fencing to the south-west corner of the site, the proposals represent an acceptable form of development, which is in keeping with the surrounding industrial estate. With the addition of the recommended restrictive conditions, particularly in relation to noise and odour generating activities, the requirement for noise management plans and the restrictions on external activities, it is not considered that the proposed development would result in an unacceptable level of harm to the amenities of neighbouring residential properties.

5.0 RECOMMENDATION OF THE SOUTHERN AREA PLANNING COMMITTEE REFUSE:

- 1. The proposed development is contrary to Policy E8 of the Test Valley Borough Revised Local Plan (2016) because the proposal would result in a large number of noisy vehicle movements in close proximity to nearby residential properties to the detriment of the quality of life and amenity of those residents.**

6.0 RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING PERMISSION subject to:

- 1. The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
- 2. The development hereby permitted shall be carried out in strict accordance with the following approved plans:
Location Plan – drawing no 13123 P101 Rev
Site Plan – drawing no 13123 P102 Rev P6
Unit 1 Ground Floor Plan – drawing no 13123 P103 Rev P3
Unit 1 First Floor Plan – drawing no 13123 P104 Rev P3
Unit 1 Proposed Elevations – drawing no 13123 P105 Rev P3
Unit 1 Roof Plan – drawing no 13123 P106 Rev P3
Unit 1 Building Section – drawing no 13123 P107 Rev P3
Unit 2 Ground Floor Plan – drawing no 13123 P108 Rev P2
Unit 2 Office Plans – drawing no 13121 P109 Rev P2
Unit 2 Proposed Elevations – drawing no 13123 P110 Rev P2
Unit 2 Roof Plan – drawing no 13123 P111 Rev P2
Landscape Proposals Master Plan – drawing no A2403 07 Rev C
Landscape Proposals Unit 1 – drawing A2403 08 Rev C
Landscape Proposals Unit 2 – drawing A2403 09 Rev C
Reversing Alarms Technical Note – WYG, 10 March 2016
Acoustic Attenuation Technical Note - WYG, 23 February 2016
Reason: For the avoidance of doubt and in the interests of proper planning.**
- 3. Prior to the commencement of the development or any phase of the development hereby permitted, the following details shall be submitted to and approved in writing by the Local Planning Authority:
a) details and samples of all materials to be used in the construction of the external surfaces of the buildings and hard landscaping areas;
b) details including height and materials of all fences and other means of enclosure, including construction details for the proposed acoustic fencing;
c) details and layout of foul sewers and surface water drains;
d) plans including cross sections to show proposed ground levels and their relationship to existing levels both within the site and on immediately adjoining land;
e) details of proposed external lighting.**

The development shall not be brought into use until the approved details have been fully implemented, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To limit the impact the development has on the locality, in accordance with Policies E1 and COM15 of the Test Valley Borough Revised Local Plan (2016).

- 4. No external noise-generating fixed plant or machinery (including any extraction systems and any wall fans) shall be permitted to operate without prior approval from the Local Planning Authority. Any items of plant or machinery with a sound power level of 60 dB(A) or lower may be disregarded (due to likely insignificance) for purposes of this condition.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 5. The combined level of break-out of noise from any plant, machinery and/or equipment (excluding noise from any vehicle movements) inside Unit 1 arising from a General Industrial use (Use Class B2 under the Town and Country Planning (Use Classes) Order 1987 (as amended)) shall not exceed a sound level of 30 dB LAeq(1 hr) between the times 0700 – 1900 hrs and 25 dB LAeq(15 minutes) at all other times. Such levels shall be determined at free field locations representing facades of receptor positions R1 – R5 as shown in the submitted Noise Assessment Report (WYG, February 2016) or an alternative position to be agreed with the Local Planning Authority.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 6. No odours arising from an odour generating General Industrial process (Use Class B2 under the Town and Country Planning (Use Classes) Order 1987 (as amended)) shall be detectable at the boundary of the property on Sundays or public holidays, nor outside the hours of 07:00 - 19:00 Monday to Friday and 0800 - 1300 on Saturdays.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 7. No external storage of goods or materials shall be permitted across the site, other than within the enclosed service yard areas attached to the northern elevation of Unit 1 and the western elevation of Unit 2.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 8. No refrigerated storage shall be permitted on the site and no refrigerated lorries and/or refrigerated lorry containers shall be kept on the site without the prior written approval of the Local Planning Authority.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 9. The noise barriers and service yard enclosures shall be constructed in accordance with the submitted 'Acoustic Attenuation Technical Note' (WYG, dated 23 February 2016). The noise barriers and service yard enclosures shall be provided prior to first occupation of the buildings hereby permitted and in accordance with the approved details and thereafter maintained in good repair so as to ensure continued effectiveness.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 10. The fire exit door on the western elevation of Unit 1 shall each be fitted with a well-functioning self-closing device and kept closed at all times, except where strictly necessary for access purposes.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 11. Fork lift trucks requiring the use of an audible reversing alarm shall be fitted with a directional white noise reversing alarm at all times. All other vehicles requiring the use of a reversing alarm, including delivery vehicles, must also be operated in accordance with the Reversing Alarms Technical Note prepared by WYG and dated 10 March 2016.**

Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 12. Prior to the occupation of Unit 1 (as shown on drwg no 13123 P102 Rev P6 – Site Plan) a scheme to minimise noise disturbance to neighbouring residential properties shall be submitted to and approved in writing by the Local Planning Authority. The means of noise mitigation shall either comprise the erection of the proposed Unit 2, (as defined on drwg no 13123 P102 Rev P6 – Site Plan) or an alternative means of providing acoustic treatment to the same acoustic value as Unit 2. Development shall be in accordance with the approved details and shall be fully implemented prior to the occupation of Unit 1.**

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 13. Prior to the occupation of Unit 2 (as shown on drwg no 13123 P102 Rev P6 – Site Plan) a scheme to minimise noise disturbance to neighbouring residential properties shall be submitted to and approved in writing by the Local Planning Authority.**

The means of noise mitigation shall either comprise the erection of the proposed Unit 1, (as defined on drwg no 13123 P102 Rev P6 – Site Plan) or an alternative means of providing acoustic treatment to the same acoustic value as Unit 1. Development shall be in accordance with the approved details and shall be fully implemented prior to the occupation of Unit 2.

Reason: To safeguard the amenity of nearby residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

14. Prior to the commencement of the development or any phase of development hereby permitted, a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. Construction work shall only take place in accordance with the approved method statement which shall include:
- a) the location of temporary site buildings, compounds, construction material and plant storage areas used during construction;
 - b) the arrangements for the routing/ turning of lorries and details for construction traffic access to the site;
 - c) the arrangements for deliveries associated with all construction works, loading/ unloading of plant & materials and restoration of any damage to the highway;
 - d) the parking of vehicles of site operatives and visitors;
 - e) measures to control the emission of dust and dirt generated by construction;
 - f) a scheme for controlling noise and vibration from demolition and construction activities (to include piling);
 - g) measures to prevent mud and dust on the highway during construction;
 - h) protection of pedestrian routes during construction;
 - i) measures to prevent runoff into the adjacent stream.

Reason: To limit the impact the development has on the amenity of the locality, in accordance with Policies E5, E8 and T1 of the Test Valley Borough Revised Local Plan (2016).

15. Prior to the commencement of the development hereby permitted, a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminated land and/or gases when the site is developed and proposals for future maintenance and monitoring shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

Reason: To ensure a safe living/working environment in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 16. The development hereby permitted shall not be occupied or brought into use until verification by a competent person approved under the provisions of Condition 15 that any remediation scheme required and approved under the provisions of condition 15 has been implemented fully in accordance with the approved details has been submitted to and approved in writing by the Local Planning Authority, unless otherwise first agreed in writing with the LPA in advance of implementation. Such verification shall comprise:**
- a) as built drawings of the implemented scheme;**
 - b) photographs of the remediation works in progress;**
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination;**
- The scheme shall thereafter be monitored and maintained in accordance with the scheme approved under condition 15.**
- Reason: To ensure a safe living/working environment in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).**
- 17. The development hereby permitted shall be carried out in accordance with the measures contained within the ‘Tree Survey Report to BS5837:2012’ (Encon Associates Ltd, Rev C – 29 Feb 2016), unless otherwise first agreed in writing by the Local Planning Authority. Any tree protection fencing required shall be erected prior to demolition or construction works commencing on site. Once erected, no access by vehicles, storage or use of machinery, equipment or materials shall take place within the fenced area. The fencing shall be retained in its approved form for the duration of the works.**
- Reason: To safeguard the health, stability and future retention of trees on and adjacent to the site, in accordance with Policy E2 of the Test Valley Borough Revised Local Plan (2016).**
- 18. The development hereby permitted shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear in accordance with the approved plan and this space shall thereafter be reserved for such purposes at all times.**
- Reason: In the interests of highway safety in accordance with Policies T1 and T2 of the Test Valley Borough Revised Local Plan (2016).**
- 19. Prior to the commencement of development or each phase of development hereby permitted, details of a sustainable drainage system shall be submitted to and approved in writing by the local planning authority. The details shall include a timetable for its implementation and a management/ maintenance plan for the lifetime of the development, including any arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime. The system shall be implemented and thereafter managed and maintained in accordance with the approved details.**

Reason: To ensure satisfactory drainage for the development in accordance with Policy COM15 of the Test Valley Borough Revised Local Plan (2016).

- 20. The development hereby permitted shall be constructed in accordance with the Flood Risk Assessment, Hydraulic Modelling and Drainage Strategy Report, ref. R/C14907/F001.03, July 2015, unless otherwise first agreed in writing by the Local Planning Authority and the Environment Agency.**

Reason: To ensure that the flood risk is minimised in accordance with Policy COM15 of the Test Valley Borough Revised Local Plan (2016).

- 21. The development hereby permitted shall be designed and built so that it achieves a standard equivalent to Building Research Establishment's Environmental Assessment Method (BREEAM) 'excellent' credit required for water consumption (reference Wat 1). The development shall not be occupied until written evidence demonstrating that this level of water consumption is achieved for the development has been submitted to and approved in writing by the Local Planning Authority.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan (2016).

- 22. Prior to the occupation of Unit 1, a 'Noise Management Plan' for the unit shall be submitted to and approved in writing by the Local Planning Authority. This scheme must include proposals for minimising service yard noise, the control of noise associated with deliveries and the escape of break-out noise from inside the building. Implementation shall be in accordance with the approved details and any mitigation measures required shall be in place prior to the commencement of any such use of the building and thereafter maintained in perpetuity.**

Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 23. Prior to the occupation of Unit 2, a 'Noise Management Plan' for the unit shall be submitted to and approved in writing by the Local Planning Authority. This scheme must include proposals for minimising service yard noise, the control of noise associated with deliveries and the escape of break-out noise from inside the building. Implementation shall be in accordance with the approved details and any mitigation measures required shall be in place prior to the commencement of any such use of the building and thereafter maintained in perpetuity.**

Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

- 24. Prior to the commencement of the development hereby permitted, full details of the louvres within the enclosed service yard areas, including their acoustic value, shall be submitted to and approved in writing by the Local Planning Authority. Implementation shall be in accordance with the approved details.**
Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).
- 25. The rooflight windows to Unit 1 and the covered serviced yards to Units 1 and 2 shall be non-opening and shall be maintained as such in perpetuity.**
Reason: To protect the amenities of neighbouring residential properties, in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).

Notes to Applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
 - 2. Permission is required under the Highways Act 1980 to construct/alter/close a vehicular access. Please contact the Head of Highways, Hampshire County Council, Jacobs Gutter Lane Hounslow, Totton, Southampton, SO40 9TQ. (0845 6035633) or highways-transportwest@hants.gov.uk at least 6 weeks prior to work commencing.**
 - 3. Birds nests, when occupied or being built, receive legal protection under the Wildlife and Countryside Act 1981 [as amended]. It is highly advisable to undertake clearance of potential bird nesting habitat [such as hedges, scrub, trees, suitable outbuildings etc.] outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable [approximately 5m] stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.**
 - 4. With regards to Condition 21, evidence of a suitable BREEAM certificate or written evidence by a BREEAM accredited professional would both be potentially appropriate forms of submission.**
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