

**6. Proposed new industrial development and works to highway (Outline) (as amended) (GR345626/117743) Land OS 6375 & 5576 Ringwell Hill Martock Somerset TA12 6LG**

Reason for Referral to Regulation Committee:

Members will recall that this application was considered at the February 2006 meeting of the Regulation Committee. It was resolved that permission be granted on the expiry of 21 days from the date the Secretary of State is notified of the application under the provisions of Article 17 of the General Development Procedure Order 1995 and the direction issued thereunder provided that the Secretary of State has not already called the application in for his own determination or issued a holding direction under Article 14 of the General Development Procedure Order. It was also subject to the applicant entering into a Section 106 Agreement. A copy of the report that was presented to the Regulation Committee in February 2006 has been attached along with the minutes of the meeting (Appendix A)

For information, Members may be aware that a formal approval for this application has yet to be issued. This is because an issue has arisen since the Committee meeting with regard to the presence of Great Crested Newts. Following receipt of legal advice from the Council's Solicitor, it is the opinion of the Council that as local planning authority, the application requires environmental impact assessment and the submission by the applicant of an environmental statement prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and the advice in Circular 2/99.

The presence of Great Crested Newts was clearly a material consideration that the Committee did not have before them when agreeing that EIA was not required and that outline permission should be granted. The applicant is willing to undertake the necessary EIA but has serious concerns regarding the viability of any future site operations due to the imposition of restrictive planning conditions as outlined below. Moreover, the cost of undertaking the EIA is approximately £30 000. Therefore, amendments are being sought to those conditions along with 2 other proposed conditions. Should these amendments and additional conditions be approved, the applicant would then undertake the necessary EIA. A further report will also need to be brought back to Regulation Committee if and when an EIA is undertaken.

The reason for referral to the Regulation Committee is that the Local Planning Authority has received a letter from the agent, dated 18<sup>th</sup> June 2007 with regard to proposed planning conditions 28 and 29. A copy of the agent's letter has been attached to this report (Appendix B). In summary, the agent outlines his reasons why both of these conditions as currently drafted are considered to be unduly restrictive and unreasonable and require amendment.

**Update**

The full list of proposed conditions is included within the attached report (Appendix A). Specifically, condition 28 seeks to restrict working times for B1 and B2 units between 8am and 7pm Mondays to Fridays and 8am and 1pm Saturdays. Condition 29 seeks to restrict deliveries both in terms of arrival and despatch from any units on site outside of the hours referred to in condition 28. Both conditions have been imposed to safeguard local residents from noise and disturbance.

The proposal first presented to Regulation Committee included a 10m buffer strip along the north and western boundaries. During the discussion, the buffer strip was proposed and extended to 30m. This was agreed by Members. The agent is requesting that in such circumstances, it is reasonable to reconsider the hours of operation condition to facilitate the future viability of the site.

The agent considers that this buffer zone will provide significant noise mitigation. Furthermore, the imposition of additional conditions would further assist in terms of noise mitigation. These additional conditions relate to providing internal sound insulation of the buildings and imposition of a noise decibel limit on the boundary of the site as agreed by the Environmental Health Officer. The agent therefore considers that these measures would adequately protect residential amenity and that an extension of the working times to run from 7am to 11pm Monday to Saturday would be reasonable. An extension of the working times would overcome the serious concerns over the future viability of the site. With regard to condition 29, the agent has outlined his reasons for excluding B8 units from this condition restricting deliveries. Again, the agent has outlined concerns that the proposed restriction would cause serious problems in terms of the proper functioning of those businesses and thus their viability.

The agent's letter has been forwarded to the Environmental Health Officer for his consideration of the proposed amendments to conditions 28 and 29 and to additional conditions with regard to sound insulation and decibel limits on the boundaries of the site. Comments are awaited from the Environmental Health Officer and an oral update will be given at the meeting.

**Recommendation:**

Subject to approval from the Environmental Health Officer, the following amendments and additions are made to those conditions approved by Regulation Committee in February 2006:

Condition 28: Working times for the B1 and B2 units shall be restricted to 07:00 to 23:00 Mondays to Saturdays with no working on Sundays or Bank holidays.

Reason: To safeguard local residents from noise and disturbance.

Condition 29: No deliveries to arrive or be dispatched to the B1 and B2 units outside of the above hours as specified in condition 28.

Reason: To safeguard local residents from noise and disturbance.

Condition 34: The buildings shall be constructed/adapted so as to provide sound insulation against internally generated noise of not less than \*\* Db(A) (figure to be agreed by EHO) with windows shut and other means of ventilation provided.

Reason: To safeguard local residents from noise and disturbance.

Condition 35: Noise emanating from the site shall not at any time exceed a decibel level of (\*\*to be agreed with EHO) Db(A) leq (1 hour) as measured at point A on the boundary of the site as shown on the attached plan.

Reason: To safeguard local residents from noise and disturbance.