



PLANNING & DEVELOPMENT COMMITTEE

19 SEPTEMBER 2019

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 19/0748/15 (LJH)
APPLICANT: Concrete Canvas Group Ltd.
DEVELOPMENT: Removal/variation of condition 4, time (previous planning application 19/0071/10)
LOCATION: FORMER CRABTREE AND EVELYN OVERSEAS LTD,
COWBRIDGE ROAD, TALBOT GREEN, PONTYCLUN,
CF72 8HL
DATE REGISTERED: 09/07/2019
ELECTORAL DIVISION: Pontyclun

RECOMMENDATION: GRANT SUBJECT TO CONDITIONS

REASONS: Unrestricted delivery times to silos 2, 3, & 4 are considered unlikely to have a significant impact to the amenity of the neighbouring residential properties. The application is therefore considered to comply with Policies AW5 & AW10 of the Rhondda Cynon Taf Local Development Plan.

REASON APPLICATION REPORTED TO COMMITTEE

- Three or more letters of objection have been received.

APPLICATION DETAILS

The application seeks to vary condition 4 of planning permission 19/0071/10, which gave consent for the installation of 4 no. silos and cladding to an existing industrial unit on Cowbridge Road, Talbot Green, Pontyclun.

Currently condition 4 stipulates the following:

Deliveries to the site shall only take place between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 16:00 on Saturdays, and not at all on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that noise and disturbance from deliveries does not become a nuisance to neighbouring residential properties in accordance with Policy AW10 of the Rhondda Cynon Taff Local Development Plan.

The applicant has requested the variation of condition 4 as they believe that reference to 'the site' is unclear and could be interpreted as all deliveries to the industrial site as a whole. Members are advised that condition 4 relates solely to the four silos previously approved and not the site as a whole. Furthermore, given the location of silos 2, 3, & 4 on the northern part of the western facing elevation of the building, the applicant believes that unrestricted deliveries to these silos would not have a significant impact upon the adjacent residential properties and would therefore like to remove the restrictive delivery times condition in respect of these silos. Hours of deliveries to silo 1 will remain unchanged.

As such, permission is sought to vary the wording of the condition to:

Deliveries to the silo marked as Silo 1 on the approved plan "Layout Plan" received on 09/07/2019 shall only take place between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 16:00 on Saturdays, and not at all on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that noise and disturbance from deliveries does not become a nuisance to neighbouring residential properties in accordance with Policies AW5 & AW10 of the Rhondda Cynon Taff Local Development Plan.

(Members please note that condition 3 (acoustic report) of 19/0071/10 is currently being considered under discharge of condition application 19/0747/38. Condition 5 (cladding specification) has been agreed – 'Goosewing Grey, BS:10A05, RAL:7038).

SITE APPRAISAL

The application site relates to a large factory unit located on the main road leading to the village of Pontyclun. The site is accessed from Cowbridge Road and has a large parking area to the north. The unit is split into two distinct elements with a single storey area along its front and a larger two storey area to the rear. The site is currently used by the applicant on a small scale however the silos would allow for the unit to be brought back fully into beneficial use. The site is well screened from Cowbridge Road by existing boundary fencing and hedges. The unit is set back from the highway by a minimum of 23 metres with car parking and the external breakout area located between.

Immediate neighbouring properties are commercial units with the closest neighbouring residential properties located at Pant Y Dderwen and Ynysddu. The closest property in Pant Y Dderwen to the south-west corner of the Concrete Canvas building being 14 metres to the south and the closest property in Ynysddu being 42 metres away to the west on the other side of the River Ely.

PLANNING HISTORY

19/0747	Discharge of condition 3 (acoustic report) and 5 (specification of cladding) of previous application 19/0071	Currently being considered
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19/0071	Install profile steel cladding and acoustic and thermal insulation over the existing cladding on the walls of the highbay unit & install 3 silos on west side of unit and 1 silo on the south east side of the unit (southern end) (amended plans received 07/03/2019).	Approved with Conditions	01/07/19
18/1067	Minor internal & external alterations including raising existing flat roof, replacement windows and external doors, new glazed entrance lobby, alterations to external break-out area and site signage.	Approved with Conditions	19/11/18
17/1358	Certificate of Lawful Development for a proposed B2 usage.	Approved with Conditions	19/01/18
12/0756	The renewal/upgrade of plastic coated steel mesh fencing (113m) to palisade fencing at the rear of Crabtree & Evelyn to match the existing front perimeter fencing.	Approved with Conditions	03/09/12

PUBLICITY

The application has been advertised by direct notification to neighbouring properties and notices were erected on site. Eight letters of objection have been received and are summarised as follows:

- Allowing deliveries to the site 24 hours a day is unacceptable. It is understood that deliveries to the site were restricted to the hours specified in condition 4.
- Concrete Canvas are not concerned with the nuisance caused by Royal Mail and seem to totally disregard any conditions stipulated by the LPA. There is concern that they will display the same lack of concern for any nuisance their own delivery vehicles will cause.
- Crabtree & Evelyn were not operational at the delivery bays or used vehicles after 5pm. They operated five days a week between 8am & 5pm.
- There is concern regarding vibration of land close to neighbouring properties and potential damage.
- The delivery bays are adjacent to silo 1 and within metres of adjacent residential housing and if the condition is removed this will cause additional noise and disturbance.
- The additional silos should be subject to the same restrictions as silo 1.
- The acoustic report was taken when the unit was empty. It is still uncertain what impact any noise levels might have.
- It is feared that the change of use will impact on the quality of life of neighbouring occupiers and create the risk of depreciation in property value.

CONSULTATION

Public Health and Protection: No objection.

Natural Resources Wales: No comments to make.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Pontyclun.

Policy AW5 - sets out criteria for new development in relation to amenity and accessibility.

Policy AW6 - requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

Policy AW10 - supports developments which do not cause harm to public health or amenity.

Supplementary Planning Guidance:

- Design and Place Making

National Guidance

In the determination of planning applications, regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

The Welsh Government published Planning Policy Wales 10 on 5th December 2018, and the document aims to incorporate the objectives of the Well-being of Future Generations (Wales) Act into Town & Country Planning.

It is considered that this proposal meets the seven wellbeing of future generations goals inasmuch as they relate to the proposed development and that the site has been brought forward in a manner consistent with the five ways of working.

It is considered that the proposed development is consistent with the key principles and requirements for Placemaking as set down in Chapter 2 People and Places: Achieving Well-being Through Placemaking, of PPW10 and is also consistent with the following inasmuch as they relate to the development

Chapter 1 (Managing New Development)

Chapter 2 (Maximising Well-Being and Sustainable Places through Placemaking)

Chapter 4 (Active and Social Places)

Technical Advice Note (TAN) 4 Retail & Commercial Development

Technical Advice Note (TAN) 11 Noise

Technical Advice Note (TAN) 23 Economic Development

REASONS FOR REACHING THE RECOMMENDATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

Main Issues:

Principle of the proposed development

The application site is an established industrial unit which can be lawfully put to a general industrial use (B2). It is within the Southern Strategy Area and the settlement boundary. By virtue of a recent planning permission (19/0071/10), the application property has consent to install 4 no. silos and deliver to the silos between the times stipulated in condition 4 of that consent. The applicant now seeks to amend the condition to allow deliveries to silos 2-4 on an unrestricted basis. The restriction of deliveries to silo 1 would remain unchanged.

As such, the principle of the installation, operation, and deliveries to the silos has already been established, and the key consideration is whether allowing deliveries to silos 2-4 on an unrestricted basis would have a harmful effect on the amenity of neighbouring properties. This matter is discussed below.

Impact on residential amenity and privacy

The main concern, in respect of the proposed condition, is with regard to potential for detriment to the amenity of neighbouring residents; primarily on account of noise disturbance from vehicle movements.

Representations have been received from residents during the consultation period within which the objectors comment that allowing deliveries to the site 24 hours a day is unacceptable. They state that the previous occupiers operated only five days a week between 8am & 5pm. The objectors request that the deliveries are restricted to all four silos, not just silo 1. They state that the delivery bays are directly adjacent to silo 1 and are themselves within metres of adjacent residential housing and therefore if condition 4 is removed/amended this will cause additional noise and disturbance. It is also stated that when Pant-y-Dderwen was constructed the site in question was used as a distribution centre and not a heavy industrial site and it is feared that the change of use will impact on the quality of life of neighbouring occupiers.

The application proposes to amend condition 4 of 19/0071/10 to allow unrestricted deliveries to silos 2, 3, & 4 for the reason that these silos are located well away from any residential properties. The applicant believes that deliveries to these silos would not result in any disturbance to the occupiers of the properties along the southern boundary of the site due to their siting/location. The applicant also states that condition 4 of 19/0071/10 is unclear and could be interpreted as deliveries to the site as a whole

are restricted when there has been a history of unrestricted B2 use on the site. The applicant therefore proposes that only deliveries to silo 1 (the silo nearest to Pant-y-Dderwen) are restricted.

In response to the concerns of the objectors, the lawful use of the application site is use class B2 and therefore no change of use has taken place. The site has historically had no restrictions on hours of operation or deliveries. It is appreciated that the previous occupiers (Crabtree & Evelyn) may have only operated between the hours of 8am & 5pm however they were not restricted to these hours and simply chose to do so. The previous application (19/0071/10) related solely to the installation of four silos and cladding. Condition 4 of application 19/0071/10 was appended to restrict deliveries to the four silos only, it does not relate to deliveries to the wider site. As such, the applicant proposes to alter the wording of the condition so it is more precise as it could currently be interpreted that deliveries to the whole site have been restricted, which is confusing for surrounding residents. Consequently the key consideration is whether allowing unrestricted deliveries to silos 2, 3, & 4 would impact upon the amenities of the adjacent properties. Delivery hours to silo 1 would remain unchanged.

The objectors request that all four silos should be subject to the same restrictions as deliveries to any of the silos would result in noise and disturbance. However, due to the location/siting of silos 2, 3, & 4 to the rear of the building, approximately 86 metres away from the nearest dwellings in Pant-y-Dderwen, and screened from them by the industrial unit itself, it is not considered that deliveries to these silos would be overly noticeable from the properties at Pant-y-Dderwen. In addition, the silos are located approximately 54 metres away from the nearest dwellings in Ynysddu, are separated from them by the river, and screened by mature trees that line the river. As such, it is also not considered that deliveries to the silos would be overly noticeable from the properties in Ynysddu. Furthermore, the Council's Public Health and Protection Section have not raised any objection to this application and have not requested a noise assessment to be submitted. Therefore, it is not considered that allowing unrestricted deliveries to these silos would cause a significant impact to the amenities of neighbouring properties, or any further impact in comparison to that which could have previously occurred, or be great enough to warrant refusal.

Impact on the character and appearance of the area

This application would not alter the physical form of the development, as approved, or result in any changes to the appearance of the site.

Consequently, there would be no impact in this regard.

Issues raised by objectors

The objectors also raise concern with regards to the accuracy of the noise assessment relating to silo 1 and the acoustic cladding, which has been submitted under the current discharge of conditions application (19/0747/38) to discharge condition 3 of 19/0071/10. Whilst these comments are acknowledged, there would be no change to silo 1 or the cladding previously approved and therefore any issues that arise within

the assessment would be fully addressed and mitigated against through the separate discharge of condition process.

The objectors raise concern with regards to Concrete Canvas not being concerned by the nuisance that they allowed Royal Mail to cause during a previous use. Whilst these comments are acknowledged, this application relates to the current use of the site.

One objector raises concern with regards to vibration of land and potential damage to their property, they ask who will be liable for any damage caused. There is no evidence presented to the LPA of vibration at the site, however any damage caused to the nearby residential properties by the applicant would be a private matter.

With regards to the concern raised that the operations may cause depreciation in property value, this is not a material planning consideration and regard of potential property devaluation cannot be given any weight.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The proposed variation to the wording of condition 4 (19/0071/10) is considered unlikely to have an increased detrimental impact to the amenity of the neighbouring commercial and residential properties and the application is therefore considered to comply with Policies AW5 & AW10 of the Rhondda Cynon Taf Local Development Plan.

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans: Location Plan, Layout Plan, and documents received by the Local Planning Authority on 09/07/2019 and 11/07/2019, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. Within 28 days of the date of this consent, an acoustic report detailing any mitigation measures required to minimise any noise nuisance that may arise during installation and operation of the proposed silos and their associated plant, must be submitted to the Local Planning Authority (unless by such time the submission made in respect of condition 3 (of 19/0071/10) under discharge of condition application 19/0747/38 has already been agreed in writing by the Local Planning Authority) and subsequently approved in writing by the Local Planning Authority. The parameters of the acoustic report must be agreed with the Local Planning Authority beforehand. Any mitigation measures identified must be carried out before beneficial use of the silos and be maintained for so long as the silos and their plant remain operational.

Reason: To ensure that the noise emitted from the development does not become a nuisance to neighbouring residential properties in accordance with Policy AW10 of the Rhondda Cynon Taff Local Development Plan.

4. Deliveries to the silo marked as Silo 1 on the approved plan "Layout Plan" received on 09/07/2019 shall only take place between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 16:00 on Saturdays, and not at all on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that noise and disturbance from deliveries does not become a nuisance to neighbouring residential properties in accordance with Policies AW5 & AW10 of the Rhondda Cynon Taff Local Development Plan.

5. The colour and specification of the external cladding to be used in the re-cladding of the building shall conform to the use of 'Goosewing Grey – BS:10A05, RAL:7038 as agreed under 19/0747/38.

Reason: In the interests of the visual amenity of the area in accordance with Policy AW 6 of the Rhondda Cynon Taff Local Development Plan.