

Site Address: Bagnalls Ltd, Station Road, Enslow, Kidlington, OX5 3AX

Ref No 13/01688/F

District Councillor: Cllr Simon Holland

Ward: Kirtlington

Case Officer: Michelle Jarvis

Recommendation: Approval

Applicant: Mr Jonathan Bagnall, Bagnalls Ltd

Application Description: Retrospective – Erection of a covered saw shed

Committee Date: 15 May 2014

1. Site Description and Proposed Development

- 1.1 The application site forms a parcel of land adjacent to the Oxford Canal to the north, a railway line to the east, the B4095 to the south and the Rock of Gibraltar PH to the west. Residential dwellings are also in the vicinity beyond the existing railway track.
- 1.2 Members will recall that this application was deferred from last committee when late information was received with regard to the current use of the site and how this altered the previous application. Predominant use of the site to date has been as a coal merchants with two large warehouse type buildings that were used to process and store coal and charcoal. However when the Council's Anti-Social Behaviour Manager carried out his site visit for the previous application, it was noted that the coal business had ceased operation with the unauthorised hopper(that formed part of the submitted application) having been removed and the other hoppers disconnected from use. An email from the applicant which confirmed the relocation of the coal business was received by the Case Officer and has resulted in the application now only being in relation to the saw shed and its use in conjunction with the stone business remaining on this site.
- 1.3 There is a significant amount of planning history associated with this site and a large proportion of the history is enforcement related. This application is the outcome of the processing of an enforcement investigation. The table below gives an indication of the applications which have been applied for:

Application	Description	Decision	Date
NE.660/71	Use for manufacture of portable buildings, garden furniture etc	REFUSED	01.02.1971
NE.223/72	Use for manufacture of portable buildings, garden furniture etc	APPROVED	15.06.1972
CHS.529/79x	New workshop building for light industrial use	APPROVED	22.11.1979

CHS.143/80x	Erection of five small units for light industrial use together with demolition of redundant railway buildings. Installation of roads and services	APPROVED	04.08.1980
CHS.473/82	Change of use of station yard to coal and wood yard	APPROVED	09.02.1983
CHS.7/86	Temporary building for office use in connection with Diamond Farm fuel supplies	APPROVED	25.02.1986
CHS.451/85	The erection of a building for the storage of prepacked solid fuel	APPROVED	28.10.1985
CHS.984/88	Erection of new vehicle maintenance building, workshop and stores	APPROVED	10.02.1989
CHS.590/94	Proposed warehouse	WITHDRAWN	07.01.1995
95/00523/F	Retrospective – change of use of land for existing storage of fuel and office until. Proposed warehouse and extension to existing warehouse	APPROVED	11.08.1995
99/01522/F	Re-siting of siting and erection of new offices and construction of cesspool	REFUSED – Appeal Dismissed	25.10.1999
99/02052/F	Additional offices and cloakroom facilities (temporary) and cesspool and re-siting of existing offices	REFUSED	24.01.2000
09/00304/F	Retrospective - Cover all hoppers to reduce noise and dust emissions.	REFUSED	21.05.2009
09/00305/F	The addition of one hopper and conveyor for charcoal with dust and sound proofing and small rear shed (Retrospective)	REFUSED	10.06.2009
09/00307/CLUE	Certificate of Lawful Use Existing - Bagnalls yard; office, southern most building for coal/charcoal	REFUSED	07.05.2009

	packing, 3no. hoppers, open storage for paraffin, use of land to north for open storage.		
13/01687/F	Retrospective - Change of use to include sales direct from yard	APPROVED	03.01.2014
13/01688/F	Retrospective – Erection of covered saw shed	PENDING	

- 1.4 This application now only seeks retrospective consent for the erection of a saw shed constructed without the benefit of first obtaining planning permission. This structure has been in place for some time and the applicant is now attempting to regularise the situation.
- 1.5 Another retrospective application has been submitted and approved in the recent past (ref 13/01687/F). This was to regularise the sales of paving slabs and granite slabs from part of the site. The saw shed is now to be used ancillary to this business which is now the only one operating from within the coal yard site.
- 1.6 The site itself is located within an Area of High Landscape Value, within the Conservation Area for the Oxford Canal and abuts a Grade II Listed Building (Rock of Gibraltar PH)

2. Application Publicity

- 2.1 The application in its earlier form which included reference to the hopper was advertised by way of neighbour letter and press advert. The final date for comment was the 20 February 2014. One third party comment has been received via their agent. This related to both items therefore only the comments pertinent to the shed are now reported. The main points of this letter are as follows:

Saw shed

1. An application has been made for a saw shed for the cutting of stone something which has nothing whatsoever to do with the operation of a coal yard.
2. The saw shed already and will continue to lead to noise and disturbance.
3. There has been and will continue to be a harmful intensification of use from what was occurring in 2003.

3. Consultations

- 3.1 **Bletchington Parish Council** – Have objected to the application and state: “The hopper unit is the equipment which causes so much nuisances to neighbours regarding dust and noise. The site is not a safe site for the traffic

movements to the highway. Heavy lorries delivering to the site cause traffic congestion of the A4095” NB these comments were received when the application included reference to the coal hoppers as well. To date no revised comments have been received.

Cherwell District Council Consultees

- 3.2 **Anti-social Behaviour Manager** – Has visited the site to assess the former whole application therefore his comments associated with the hopper are now considered irrelevant. With regard to the saw shed he states: *“the structure contains a rotary stone cutting saw. The saw is water suppressed and contained within a structure so dust production from this equipment should not be an issue. On the basis that the material being cut is relatively soft i.e slate, limestone and man made composite materials the water suppression and enclosure within a structure should be sufficient to prevent excessive levels of noise”*.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan 1996 (Saved Policies)

ENV1: Environmental Pollution considerations

C13: Areas of High Landscape Values

C18: Listed Buildings

4.2 Other Material Policy and Guidance

National Planning Policy Framework (NPPF) - March 2012

Planning Policy Guidance

Submission Cherwell Local Plan (SCLP) - January 2014

The Submission Local Plan has been through public consultation and was submitted to PINs in January 2014 for Examination to take place in June 2014. The Submission Local Plan does not have Development Plan status but is a material planning consideration. The Plan sets out the Council’s strategy for the District to 2031. The policies listed below are considered to be material to this case:

ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

5. Appraisal

5.1 The key issues for consideration in this application are:

- History of the site
- Policy context
- Impact on residential amenities

- Impact on highway safety
- High Landscape Value and the impact on other heritage assets

History of the site

- 5.2 As has been outlined earlier there is significant history attached to this site both in terms of planning applications and also enforcement history that is not reported in detail in this report.
- 5.3 Planning permission was granted in 1982 for the change of use of the site to form a coal yard and this has been the predominate operation on site ever since. This was up until April 2014 when confirmation was received that the coal operation has ceased on this site and moved to an alternative site outside of the District. The applicants now intend that this site should form a base for their stone sales. It is not considered and the history of the coal business is now of relevance to this application.
- 5.4 Members will note from the history detailed earlier a previous application approved part of the site for retail sales of stone, paving slabs etc not in conjunction with the coal operation and it is now anticipated that this will be the main source of income from this site. The Anti-Social Behaviour Manager has confirmed from his earlier site visit that the entire range of buildings previously used for coal storage and packing are now being used for the storage of the stone products.

Policy context

- 5.10 The development plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material planning considerations indicate otherwise.
- 5.11 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
 - proactively drive and support sustainable economic development
 - always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- support the transition to a low carbon future in a changing climate
- encourage the effective use of land by reusing land that has been previously developed
- promote mixed use developments
- conserve heritage assets in a manner appropriate to their significance
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are of can be made sustainable; and
- deliver sufficient community and cultural facilities and services to meet local needs

5.12 The Framework at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted

5.13 Policy ENV1 of the adopted Cherwell Local Plan is of most relevance to this application. It seeks to ensure that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.

5.14 Whilst there is no specific policy within the Emerging Local Plan which addresses in detail the issue of pollution causing detriment to the amenities of others, it is considered that Policy ESD 10 is of relevance. It provides an overarching requirement for developments to be environmentally conscious and makes two specific points relevant to this application:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then development will not be permitted
- Air quality assessment will also be required for development proposals that would be likely to have a significantly adverse impact on biodiversity by generating an increase in air pollution.

Impact on residential amenities

5.15 It has been acknowledged that as of April 2014, operations at the coal yard have taken a completely different turn. Whether this change of use at the yard requires a further consent is something that is as of yet undecided but nevertheless the fact remains that the coal yard has ceased operation in favour of diversifying with a separate permission controlling the sales of the paving goods from part of the site.

- 5.16 The saw shed is located at the southern parcel of the site adjacent to the A4095 and next to the office building which forms part of the sales unit. It is constructed from profiled metal cladding with a flat roof appearance with a light to the front.
- 5.17 The Anti-Social Behaviour Officer has confirmed that the saw shed should not cause any impact of dust or noise which would be detrimental to the neighbouring properties. It must be considered that there are other industrial uses in this vicinity which could be argued to emanate some noise and furthermore there is a train line separating the nearest residential property from the business. Therefore in light of the confirmation from the Anti-Social Behaviour Manager that there will be little impact from the saw and the imposition of a planning condition to regulate it there is no objection to its siting within the shed.
- 5.18 It is acknowledged that the occupiers of the nearest residential property have made comments against this application. Now there has been a change in circumstances on the site and with the imposition of the proposed planning condition, it is not considered that the retention of the saw shed will cause any undue harm to them as neighbours of the site.

Impact on Highway Safety

- 5.19 This proposal is not considered to have any adverse impact on the highway given that it is to regularise what is already happening on site. Furthermore, as part of this application it was not considered necessary to consult the local Highway Authority as they cannot control through this application what occurs on the highway.
- 5.20 The comments of the Parish Council have been noted but this is a matter separate to this application. If there are allegations that the use of the site particularly in light of the retail sales operation that is now being run is causing issues, it is suggested that the local Highway Authority be approached and a further study be carried out.
- 5.21 Consequently when determining the previous application for the change of use of part of the yard to sales, the local Highway Authority raised no objections to the application given how small the area was. This may now need re-assessing if the applicants intention is to expand the stone business into the existing coal packing buildings that remain on site.
- 5.22 It is considered that despite there being no need to consult the local Highway Authority, in any event the proposal is acceptable in highway safety terms and complies with the guidance contained within the NPPF.

High Landscape Value and the impact on other heritage assets

- 5.23 The site is located within the Area of High Landscape Value and as such Policy C13 of the adopted Cherwell Local Plan is relevant. Whilst the site itself has been in situ for a considerable period of time and it can be argued that the impact on the AHLV has already been made, it is important to consider if there is any additional impact on this area from the retention of the saw shed.

5.24 In addition to the AHLV the site is adjacent to the Conservation Area and to a Listed Building therefore similarly to above, the retention of the shed needs to be considered. In both cases, it is not considered that the development causes any further detriment to these special areas.

Engagement

5.25 A 2012 amendment to the Town and Country Planning (Development Management Procedure) Order and the NPPF requires that Local Planning Authority's demonstrate that they have worked with the applicant/agent in a positive and proactive way. It is considered that the duty to be positive and proactive has been discharged through the efficient determination of the application.

Conclusion

5.42 Taking into account the change in circumstances surrounding the coal business and the apparent change from this to a more retail/store approach, there is no longer considered to be either a fundamental or principle objection to the regularisation of the saw shed as proposed in this application. It has been demonstrated that planning conditions can provide successful mitigation and as such the application has been recommended for approval.

6. Recommendation

Approval, subject to the following:

1. That the rated levels of noise emitted from the stone cutting shed does not exceed background when measured in accordance with British Standard BS 4142:1997 Method for rating industrial noise affecting mixed residential and industrial areas at Station House Station Road Enslow Kidlington OX5 3AX'

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.