

COMMITTEE REPORT

Date: 15 June 2017 **Ward:** Osbaldwick And Derwent
Team: Major and **Parish:** Osbaldwick Parish
 Commercial Team Council

Reference: 17/00791/FUL
Application at: Smith Brothers Ltd Osbaldwick Link Road Osbaldwick York
YO10 3JA
For: Use of premises as a trade only building supplies warehouse (use
class B8) with associated external alterations to external
elevations and erection of 3m high palisade fencing and gates and
5m high external storage racking
By: Selco Trade Centres Ltd
Application Type: Full Application
Target Date: 29 May 2017
Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The application property is a two storey vacant warehouse and showroom building located to the east of Osbaldwick Link Road. The warehouse has a footprint of around 78m x 32m. It is relatively functional in appearance. The front and southern area of the site is hard standing used for parking and manoeuvring.

1.2 To the south of the site is a large electrical sub-station. To the north is Link Business Park. Across Osbaldwick Link Road is a landscaped buffer beyond which is a residential area.

PROPOSALS

1.3 It is proposed to change the use of the building from showroom, offices and warehouse to B8 use (Storage and Distribution). The applicant is Selco which is a trade only building merchant. Proposed changes include:

- The removal of much of the glazing that is located to the front and side and replacement with vertical cladding.
- The creation/re-configuration of a servicing yard to the side and customer yard to the rear. This includes the provision of 5m high external racking.
- Erection of 3m high palisade fencing enclosing parts of the yard areas.

- Internal changes reducing the extent of the first floor to the forward most part of the building.
- The creation of additional hard standing to the rear of the building through the removal of scrub and self-seeded trees.
- The creation of additional hard standing to the front by incorporating a strip of around 4m of the grass landscaping strip within the site to the front.
- Provision of lighting columns.

PLANNING HISTORY

1.4 Planning permission was granted for the showroom, offices, warehouse and car park in December 1988 (3/100/260A/FA).

1.5 There have been no significant planning applications relating to the site since this time. In December 2016 (16/02875/FUL) a planning application was submitted by the current applicant for the external works proposed in the current application. The applicant was advised that it was considered that the proposed use of the showroom and warehouse as a builder's merchant was a change of use of the building and that a change of use should also be included with the submission.

2.0 POLICY CONTEXT

2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no adopted Local Plan in York. In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and it is against this Framework that the application proposal should principally be addressed.

NPPF - Ensuring the Vitality of town centres, Requiring Good Design, Conserving and Enhancing the natural environment.

Other Material Considerations

"Development Control Local Plan" 2005 (DCLP)

2.2 Although there is no formally adopted local plan, the "City of York Draft Local Plan Incorporating the Fourth Set of Changes" was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. Policies

considered to be compatible with the aims of the NPPF and most relevant to the development are;

2.3 Policies:

CYGP1
Design

CYGP15
Protection from flooding

CYS2
Out of centre retail warehouse criteria

CYNE6
Species protected by law

CYNE2
Rivers and Stream Corridors, Ponds and Wetland Habitats

CYGP4
Environmental sustainability

CYT4
Cycle parking standards

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections subject to conditions relating to the retention of parking and turning and manoeuvring areas.

Public Protection

3.2 No objections subject to a noise management plan to control noise from loading vehicles and fork lift trucks at the site. Also state that deliveries shall only be taken at or dispatched from the site between 07:00 to 20:00 Monday to Saturday and 10:00 - 4.00 pm on Sundays and bank holidays.

Countryside and Ecology Officer

3.3 The proposal will not lead to the loss of semi-natural habitat and the pond will remain fenced off. Do not object providing an Environmental Management Plan is agreed by condition.

EXTERNAL

Osballdwick Parish Council

3.4 Objection. The Parish Council deem the advised operating hours are unacceptable to local residents and would like to suggest the following hours which the Parish Council deem acceptable:-

- 8.00-5.00pm Monday to Friday
- 8.00-12.00pm Saturday
- Closed Sunday

3.5 The Parish Council also have concerns regarding the level of lighting on site, hedgerow retention, advertising and the extra traffic generation that this proposal would generate.

Neighbour Notification and Publicity

3.6 2 objections have been received raising the following planning issues:

- Concerned that HGV's will enter the Link Business Park and damage the road and car park.
- The application site has no parking or waiting areas for heavy vehicles.
- The site has a pond and streams on the boundaries which are important to wildlife including newts. The previous operator of the site managed the business in such a way to not conflict with wildlife. Concerned that the proposed use, including lighting will conflict with this.

4.0 APPRAISAL

4.1 The key issues in assessing the proposal are:

- Retail policy
- Impact on streetscene
- Impact on neighbours living conditions.
- Parking and highways issues.
- Impact on wildlife

- Drainage

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development.

4.3 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. The NPPF states that there are three dimensions to sustainable development - an economic role, a social role and an environmental role.

4.4 Local Plan Policy GP1 'Design' is an overarching policy. Of specific relevance to the application are criterion (F) which states that lighting should be a minimum level required for working and security and (I) which states that residents living nearby should not be unduly affected by noise or disturbance.

4.5 Local Plan Policy GP4a 'Sustainability' requires development to, for example, minimise the use of resources and conserve and enhance landscape features.

4.6 Local Plan Policy GP15a 'Development and Flood Risk' states that discharges from new development should not exceed the capacity of existing and proposed receiving sewers and watercourses and long-term run-off from development sites should always be less than the level of pre-development rainfall run-off.

4.7 Local Plan Policy CYS2 'Out of Centre Retail Warehouses' requires warehouses to sell largely only bulky goods and non food items unless they are ancillary to the main range.

4.8 Local Plan Policy T4 'Cycle Parking Standards' seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in appendix E of the Local Plan.

4.9 Local Plan Policy NE6 'Species Protected by Law' states that planning permission will not be granted that would cause demonstrable harm to species protected by law or their habitats.

4.10 Local Plan Policy NE2 'River and Stream Corridors, Ponds and Wetland Habitats' states that development will not be allowed that damages the wildlife or amenity value of such environments.

RETAIL POLICY

4.11 The previous use of the building was as a showroom and warehouse selling for example kitchens and bathrooms. Sales were generally to the public, though

there was a trade counter. The proposed use as a builder's merchant with sales to trade is considered to be a B8 use (Storage or distribution). It is not considered that the change in the use of the building would conflict with retail policy including guidance that seeks to ensure the viability and vitality of city centres.

IMPACT ON THE STREETSCENE

4.12 The changes to the exterior of the building will lead to the removal of glazing on the sides of the building and some on the front, particularly at upper floor levels. The form of the proposed building is consistent with that of warehouse buildings. The building is set back from the street and the form is considered acceptable in the commercial context of the area. Proposed 3 metre security fencing is set well back from the front boundary. There is an existing hedgerow that runs along the eastern side of the link road including in front of the application premises. This is an attractive and prominent feature of the route. The proposed change of use and works do not indicate that it will be removed.

4.13 The development proposals include the external storage of building materials up to a height of 5m on a racking system. This is proposed to the southern side and on a new hard surfaced area to the rear of the building. The racking is a lower height than the building. All though functional in appearance it is considered an acceptable use in the location. The rear extent of the hard surfaced area corresponds with the established rear line of other buildings and hard standings on the road.

4.14 The original submitted plans indicated a relatively modest number of lighting columns in the site. During the course of the application a lighting plan was submitted which included 15 eight metre lighting columns around the site as well as 13 wall mounted lights. It is considered that this is excessive in respect to the impact of columns and it is recommended that lighting details are conditioned to explore whether the number can be reduced - particularly around the perimeter of the site. Issues relating to light pollution are considered below.

IMPACT ON NEIGHBOURS LIVING CONDITIONS

4.15 The proposed physical changes to the building and hard surfaced areas will not have a significant impact on light and outlook. The key consideration is the impact of the change of use and development on light pollution and noise.

4.16 It is not considered that the level of comings and goings associated with the use would be greater than if it were retained in use as a showroom and warehouse. It is also noted that Osboldwick Link Road is already relatively well used by heavy vehicles. It is considered the key consideration is whether the deliveries and particularly the operation of the external yard of the proposed use would create noise concerns that would detract from the working conditions of nearby businesses

and the residential amenity of properties located on the western side of Osbaldwick link Road. The nearest dwelling is around 80m from the proposed service yard. The garden of the property is around 65 metres away. Officers have expressed particular concerns regarding noise from reversing beepers. The applicant has agreed to a condition that if the application is approved a noise management plan is submitted and adhered to. This will focus particularly on noise from beepers. The applicants have indicated that white noise warnings can be used in the site. The council's Public Protection team are supportive of this approach.

4.17 The existing planning permission for the site has no restriction in respect to opening house or delivery times. Given that a builders merchant has the potential to create more noise through the operation of the yard and is a use that often opens early in the morning it is considered reasonable to control this. A condition is proposed restricting opening times to:

- 0630-2000 Monday-Friday
- 0730-2000 Saturdays
- 1000-1600 Sundays and Bank Holidays

4.18 Delivery times would be restricted to:

- Monday - Saturday 07:00 to 20:00
- 0730-2000 Saturdays
- Sundays and bank holidays and public holidays 10am - 4pm.

4.19 The light assessment submitted by the applicant was considered acceptable by officers of Public Protection as the scheme would not create unacceptable levels of lighting within the local context, or harm neighbours living conditions. A further lighting assessment will be required in respect to a scheme that does not require so many new tall lampposts. This can be addressed by condition and re-assessed by Public Protection. The applicant has agreed to a condition that lighting does not occur before 06:00 or after 20:30. This is to avoid unnecessary lighting of the site and reduce any conflict with wildlife.

PARKING AND HIGHWAY ISSUES

4.20 The proposed site will retain the existing entrance. 34 car parking spaces are shown to be retained. A turning area for heavy vehicles is proposed in the service yard. It is considered that the proposal is acceptable from a highway safety viewpoint.

IMPACT ON WILDLIFE

4.21 There is a pond to the south-west corner of the site and a drainage ditch along the southern boundary. This area will remain fenced off from the working area of the site. It is not considered as such that the proposal will cause demonstrable harm to wildlife. A condition has been suggested requiring an Environmental Management Plan to ensure that construction work and the operation of the site proceeds in a way that does not conflict with this area.

DRAINAGE

4.22 A section of scrub and grass land to the east and west is to be hard surfaced. A condition has been included requiring details to be submitted ensuring that the increased hard surfacing does not lead to increased flood risk.

5.0 CONCLUSION

5.1 The proposed use makes efficient use of the existing building and site. It is considered the key consideration is whether the proposal will cause undue noise and therefore detract from the living conditions of homes located to the west of Osbaldwick link Road. It is considered that subject to the suggested conditions, particularly, those relating to operating hours and a noise management plan the proposal is acceptable.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Proposed Site Plan 17-062-004 received by The Local Planning Authority on 30 March 2017.

Proposed General Arrangement Plan 17-062-002 received by The Local Planning Authority on 30 March 2017.

Proposed Elevations 17-062-003 received by The Local Planning Authority on 30 March 2017.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 HWAY35 Servicing within the site

5 The building shall not be opened for the approved use until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

6 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

7 The approved use shall only be open to customers between the following hours:

0630-2000 Monday-Friday

0730-2000 Saturdays

1000-1600 Sundays and Bank Holidays

Reason: To protect neighbours living conditions.

8 No deliveries shall be taken at or despatched from the site outside the following hours

Monday - Saturday 07:00 to 20:00

0730-2000 Saturdays

Sundays and bank holidays and public holidays 10am - 4pm.

Reason: To Protect the amenity of nearby premises.

9 Waste removal from site shall be restricted to between the following hours:

Monday - Friday 07:00 to 20:00

0730-2000 Saturdays

No removal on Sundays, bank or Public holidays

Reason: To protect the amenity of nearby premises.

10 There shall be no external lighting of the site outside the following hours:

0600-2030 Monday-Friday

0700-2030 Saturdays

0930-1630 Sundays and Bank Holidays

Reason: To reduce light pollution and limit the impact on wildlife.

11 A noise management plan shall be submitted to the local planning authority for approval and agreed prior to the operation of the approved use. Once the noise management plan has been approved this plan shall be implemented and adhered to.

Reason: To protect the amenity of nearby premises.

(Note)- Condition 1 primarily relates to controlling noise from reversing beepers on site from both the companies vehicles and visiting vehicles.

12 An Environmental Management Plan shall be submitted to the local planning authority for approval and shall be approved prior to construction work taking place. Once the plan has been approved this plan shall be implemented and adhered to.

Reason: To ensure that construction work and the future operation of the site does not conflict with the wellbeing of wildlife and wildlife habitats on and adjacent to the site.

13 This consent does not grant permission for the lighting details submitted by the applicant by email on 26 April 2017 and 16 May 2017 and full details of lighting, including columns, fixings and light levels shall be submitted to and approved in writing by the Local Planning Authority prior to their erection and use.

Reason: To ensure that the design and location of lighting columns does not create visual intrusion and that lighting levels do not cause pollution.

14 No new hard landscaped areas shall be created until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of the surface water drainage system.

7.0 INFORMATIVES:

Notes to Applicant

1. Statement of the Council's Positive and Proactive Approach

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve an acceptable outcome:

Restrictions on operating hours and methods proposed to overcome neighbour amenity concerns.

2. Demolition and construction informatives

The developer's attention should also be drawn to the following which should be attached to any planning approval as an informative.

3. All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

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Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

4. The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

5. Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.

6. All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

7. There shall be no bonfires on the site.

8. In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken and where remediation (clean-up) is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part 2A of the Environmental Protection Act 1990.

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