

Agenda Item A17	Committee Date 15 March 2010	Application Number 09/01015/CU
Application Site 4 Old Station Yard Kirkby Lonsdale Carnforth Lancashire LA6 2HP	Proposal Retrospective application for use of land and buildings for stone working, storage and distribution (B2/B8 use) and retention of an open-fronted workshop building	
Name of Applicant Fairhurst Stone	Name of Agent Mrs Miranda Barnes	
Decision Target Date 18 December 2009	Reason For Delay Not applicable	
Case Officer	Martin Culbert	
Departure	No	
Summary of Recommendation	Approval	

1.0 The Site and its Surroundings

- 1.1 The site is located at the northern end of the Old Station Yard industrial area, to the South of Kirkby Lonsdale and the west of the A65. The industrial estate is bounded by a high bund with semi-mature screen planting on all sides except the South and is surrounded on all sides by open, undulating Countryside.
- 1.2 There are two residential properties adjacent to the southern end of the estate close to the estate road entrance and a further residential property to the east of the estate mid way up its length, separated by a narrow fields and access from Long Level (the old Roman Road running north/south to the estate).
- 1.3 The estate is accessed from a cul-de-sac section of former A65 road which has a good junction with the present A65.
- 1.4 The Unit 4 site presently contains a large existing and approved two storey building at the south end which now houses manufacturing/stone cutting processes on the ground floor with offices on the first floor of the western end of the building. A small open fronted building is located adjacent to the eastern side of the site and there are a number of externally located stone saws, rock tumbler and finishing machines, generally located along the eastern side of the site.
- 1.5 Virtually the whole open area of the site is occupied by either large mounds of uncut stone or pallets of finished product awaiting delivery, to the extent that little space is left for vehicle turning or parking. This has resulted in much parking or articulated lorries, trailers and stone skips (both loaded and unloaded) on the estate road and the reversing of articulated lorries from the old A65, along the estate road to the site.

2.0 The Proposal

- 2.1 This proposal is a retrospective application for the use of the land and buildings at plot 4 for the storage, working and distribution (B2/B8) of stone and stone products and the retention of an unauthorised open fronted workshop building backing onto the west side of the plot.
- 2.2 These activities began in February 2004 as a stone storage and distribution business. This was expanded in 2005 to include the stone working and cutting activities, mainly within the existing buildings, and in November 2008 the open fronted workshop was erected. The present use has therefore been taking place on this to some degree for 6 years and now employs over 20 local people.
- 2.3 The business operates from 07:00 to 17:30 Monday to Friday, 07:00 to 1200 Saturday and not at all on Sunday.
- 2.4 The processes and activities involve the following:-
- a) The importation of stone flags from the applicant's quarries, for storage in large, pallets and distribution when required using large HGV's.
 - b) The importation of large rocks from the quarries for storage and transfer to the processing plant as required.
 - c) The transfer of the rocks by JCB to the processing plant either within the building or externally where it is washed and cut using fixed saw equipment.
 - d) The cut stone is then transferred to the open fronted building to be cropped and finished using fixed machinery including a stone tumbler. Or cut and polished by hand held equipment.
 - e) The finished products are then either stored in pallets using fork lifts or transported to the skips using tipper trucks.
- 2.5 As part of this application, the applicant proposes to re-configure the open yard area to create more useable circulation space and room for the turning and loading of large HGV's and the parking of skips.

3.0 Site History

- 3.1 Members will note that this is a retrospective application and has been submitted following complaints, investigation by the Planning Control Section and discussions with the applicants and their agents. A detailed explanation of how events have unfolded is provided at paragraphs 3.5-3.9.
- 3.2 This site and estate were formerly the Kirkby Lonsdale Station Yard and continued to be used as a haulage and transport depot after the closure of the railway line.

96/00135/FUL - Permission was granted in 1996 for the erection of 4 industrial units and associated access road and landscaping. This permission limited the use of the estate generally to light industrial (B1) and storage (B8) uses and specifically limited unit 4 (this application site) to "*Haulage store and workshop and trailer park, unless otherwise agreed in writing by the Local Planning Authority*". The permission also removed permitted development rights in relation to building extensions without the written consent of the Local Planning Authority.

This permission was implemented in accordance with its conditions and forms the basis of the current development. However, over the years the occupiers of these units have changed a number of times, nature of their uses have also changed and most have had subsequent extensions to the original buildings. All of the building extensions except the new building on plot 4 have received planning consent. The uses of the adjoining industrial/ commercial sites are generally in accordance with the approved consents.

- 3.3 It is perhaps worth noting recent history in relation to Unit 3. This was granted consent (Ref: 98/00988/CU) for its change of use from light industry and storage to agricultural engineering (including steel fabrications), which is clearly a General Industrial (B2) use. This permission was subject to a raft of conditions to limit its impact on its surroundings and local residents, including no outside working and your officers are not aware that the subsequent application for this unit, have

given rise to any complaints from local residents to date. The precedent for the use of parts of the site for general purposes has clearly therefore been established.

3.4 There is a current separate enforcement enquiry regarding the alleged use of one of the units as a brewery but this should not affect the consideration of this current application

3.5 The Retrospective Nature of the Application

This application relates principally to the unauthorised change of use of a haulage depot to a stone working, storage and distribution yard. The unauthorised use apparently commenced in February 2004 with stone storage and distribution, and was then expanded in 2005 to include stone working and cutting activities. An additional open fronted workshop building was erected in November 2008, without planning consent and over these years the unplanted inner face of the screen mound surrounding the west, north and east sides of the site has been eaten into to create additional storage areas.

3.6 While your officers were aware that the use of the site had changed to stone storage and distribution they were not aware that the nature of use had widened to include stone working and cutting (which is a B2 general industrial use) until we received formal complaints at the end of 2008. Investigations revealed that the level of activity had outgrown the capacity of the existing buildings and yard area which resulted in storage and work being undertaken on the site access road. Stone cutting had been introduced and a new building and plant had been erected.

3.7 After a number of site visits/meetings with the site operator your officers considered that the operation of the site at that time was giving rise to significant environmental impacts and detriment to neighbouring amenities and that it was now in the public interests to take appropriate action.

3.8 However, given the history of the use, which until relatively recently occurred without such impacts and given its proportionate high level of local employment (23 full time jobs), the business was invited to consider ways to reduce the level of activity and the impacts currently generated to levels which cease to have a detrimental impact on neighbouring occupiers (residential and commercial) and to seek to regularise the use on that basis and subject to those limitations.

3.9 This application therefore seeks to establish those parameters and an enforceable regime of controls and requirements designed to achieve them.

4.0 Consultation Responses

4.1 The following responses have been received:

Consultees	Response
Lancashire County Council Highways	Concerned about skip parking on the access road. A control is required to the effect that no commercial activities associated with the use of this site shall take place outside the site curtilage. Conditions are also required to provide and retain the proposed skip storage area, vehicle turning space and car parking spaces.
Environmental Health	Had initially recommended refusal due to the inadequate assessment of noise impacts submitted with the application. Further assessment has taken place following a number of site visits, and on 8 February the Service confirms that the business appears to be operating to a much more acceptable standard than previously. Suitable conditions on their operations would allow them operate with minimal impact upon nearby residential properties.
Contaminated Land Officer	No comments.
Parish Council	No objections - Noise and dust seem to be well under control.

5.0 Neighbour Representations

- 5.1 Six lengthy letters have been received from two addresses objecting to the regularising of the present unauthorised use of this site for the following reasons:-
- 5.2
- This site is part of a very large and long established business with premises and quarries elsewhere and is rapidly expanding leading to intolerable HGV traffic to and from this site and parking on the adjacent highways and access roads.
 - Scale of the present use exceeds the capacity of the site to accommodate it, resulting in nose to tail parking along the entire length of the access roads. As a result of this parking obstruction, all traffic in and out of the units is forced into one lane; and because of the narrowness of that single lane and the restricted size of the Unit 4 yard, large and heavily-loaded stone wagons have to pull into the stopped-up old A65 road, reverse backwards round a blind corner, manoeuvre warily into the single available lane and reverse alarms wailing, all the way up to the stone yard so that they can unload from the back of the wagon and come out forwards. Traffic wanting to pass the obstruction has to wait outside the dwellings; others proceed knowing full well that an approaching forty-ton wagon dictates its own priority. The obstruction of the left hand lane often means that wagons delivering goods to other units, Mortimer's in particular, are unable to swing round into the reception yard and are forced to unload their goods on the one-lane road outside, so that that lane, too, is blocked until the unloading is completed.
 - One of the neighbours cites a recent application by Fairhursts to Craven District Council to develop a similar facility on a nine acre site near Bentham. As part of the supporting evidence for that application the applicants put forward the following points:-
 - iv) The company has outgrown its present premises (at Kirkby Lonsdale Station) and there is no possibility of expansion...
 - v) The existing site has inadequate external storage areas, the building is too small for stone-cutting and facilities for staff are again inadequate.
 - vi) The existing site cannot meet the demands for the products the company supplies and new premises are desperately required to meet the demand and to further expand the company.
- This application was refused on the grounds of its unacceptable environmental impact.
- Submitted noise assessment reports were clearly based on favourable recording conditions. The reality of the unremitting shriek of the saws, the noise of machinery and plant, the thunderous bangs of rocks being dropped and moved, the wail of vehicle alarms and the constant coming and going of ton after ton of stone suggest that somewhere in the production of these comfortable conclusions some adjustments have been made.
 - On average 7 to 8 very large wagons access this site per day, each loaded with over 20 tons of stone, which causes considerable visual impact as well as noise nuisance and congestion on the roads.
 - Road damage and very loud noise from heavy wagons and dragging skips along the surface of the old A65 to the site.
 - Inadequate drainage
 - Surrounding screen mounds are being removed from the inside to leave an inadequate and unstable land form.
 - The company has alternative premises on which to locate.
 - Loud noise nuisance from the outside circular stone saw and rock tumbler and the tipping of large stones from lorries on to the ground.
 - Constant sound of vehicle reversing warnings.

- Work generally commences at 06:00 and finishes at 19:00 however lorries have arrived at the site as late as 23:00 and left the site as early as 04:00.
- Inadequate car parking for staff numbers involved. All staff arrive on their own by car.
- Mud on all roads in wet weather and clouds of dust from lorries in dry weather.

This is a relatively brief over view of the main and most salient points of the objections but does not purport to cover all of the issues raised. The full texts and accompanying photographs can be accessed on the council's website.

The unauthorised use of this site for the purpose proposed also has a substantial history of enforcement complaints prior to submission of this application, citing similar issues.

6.0 Development Plan Policy

6.1 National Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

National Planning Policy as laid down in Planning Policy Statements (PPS1 - Delivering Sustainable Development, PPS4 - Planning for Sustainable Economic Growth, PPS7 - Sustainable Development in Rural Areas) and Planning Policy Guidance Note 24 (Planning and Noise) is relevant to the consideration of this application. In particular:-

- 6.2 • PPS1 paragraph 19 suggests that planning authorities should seek to enhance the environment as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options pursued. Where such impacts are unavoidable, mitigation measures should be considered.
- 6.3 • PPS 4, Policy EC6 (Planning for Economic Development in Rural Areas) suggests that LPA's should ensure that the countryside is protected for the sake of its intrusive character and beauty, the diversity of its landscape, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all to this and, economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled.
- 6.4 • Previously paragraphs 4, 5, 17 and 18 of PPS 7 – relating to the location of development and the re-use of buildings in the countryside – would have been applicable but these paragraphs have since been replaced by the provisions of PPS4.
- 6.5 • PPG24 Paragraph 10 states that much of the development which is necessary for the creation of jobs and the construction of essential infrastructure obstructs in the way of such development. Nevertheless LPA's must ensure that development does not cause an unacceptable degree of disturbance. They should also bear in mind that a subsequent intensification may result in greater intrusion and they may wish to consider the use of appropriate conditions.

6.6 Local Planning Policies

This site is located within a small but long established commercial/industrial estate, formerly a railway station goods yard. The estate is covered by the blanket 'Countryside' designation of the 'Saved' Proposals map to the Lancaster District Local Plan and Saved Policy **E4** (The Countryside area) of that plan. The site itself is not specifically identified in the plan.

- 6.7 Saved Policy **E4** requires development in the countryside area to be; in scale and keeping with the scale and natural beauty of the landscape; appropriate to its surroundings in terms of siting, scale, design, materials, external appearance and landscaping; to have no significant adverse effect on nature conservation or geological interests and; to have satisfactory access, servicing and parking arrangements.

- 6.8 Lancaster District Core Strategy Policy **SC1** (Sustainable Development) seeks to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change and sets out a range of criteria against which proposals should be assessed.
- 6.9 Core Strategy Policy **SC3** (Rural Communities) seeks to build healthy sustainable communities by empowering rural communities to develop local vision and identity, identify and meet local needs and manage change in the rural economy and landscape, but essentially seeks to focus development on villages identified as having fire essential services. Development outside these settlements will require exceptional justification.
- 6.10 Core Strategy Policy **E1** (Environmental Capital) seeks to safeguard and enhance the Districts environment by a range of measures which include; resisting development which would have a detrimental effect on environmental quality and public amenity and; directing development to locations where previously developed land can be recycled and reused.

8.0 **Comments and Analysis**

- 8.1 It is noted that as well as regularising the existing use of the site and the open fronted work shelter, the proposals also include, as mitigation:
- The reorganisation of the yard layout to create specific areas for the parking of all skips on site and for the turning and manoeuvring of articulated lorries within the site together with dedicated circulation routes around the yard for the stone handling vehicles;
 - The tipper trailers that previously moved the boulders from the lorries to the yard floor have been replaced by flat wagons that lift as appeared to drop the stones. These should prevent the land, dropping noises experienced by neighbours and will be retained;
 - The stone tumbler, which is sited outside will be lined with a rubber lining and re-housed within one of the buildings. This is possible because it works by the stones rubbing together to rub off the sharp edges rather than the inside of the tumbler drum;
 - Floodlights to be redirected away from neighbours; and,
 - No more than 2 HGV's to be in the process of arriving at, within, or leaving from the site at any time.
- 8.2 It appears to your officers, from personal site visits and from the representations received that the main issues in this case are the noise generated by the movement and working of the stone in the yard and the visual auditory and physical nuisance and disturbance generated by HGV's accessing, parking, loading and unloading on the access roads.
- 8.3 The application was accompanied by a traffic and highways report, which found that during a 12 hour survey, 28 vehicles arrived at and 34 vehicles left the application site. This was less than the trip generation of unit 2 and represented only 25/30% of the total trip generation of the estate. Similarly with the maximum accumulating parking, the application site attracted a maximum of 18 vehicles, the same as unit 2 and only 31% of the estate total. During the survey, no more than 2 HGV's were in the process of either arriving or departing the site, at any one time.
- 8.4 Notwithstanding the information contained in the representations, there is no evidence to suggest that these figures are in any way misleading in respect of the operation of the site since the application was requested. Observations of the site by your officers would suggest that such a change in the manner in which the vehicle movements and the use of the access roads takes place, has occurred over this period. The highway authority have not raised any objections or concerns in respect of the contamination of the use of the site in the manner proposed.

- 8.5 With regard to the noise issue, a noise assessment was submitted with the application. This was considered to be inadequate in terms of its depth and scale. Further noise surveys were carried out by the applicant which identified that noise from the site does cause disturbance to nearby residents and identified four sources;
- Noise from vehicle movements in and out of the site
 - Noise from vehicle movements within the site
 - Noise from stone cutting and dressing equipment at the site
 - Noise from unloading and handling large pieces of uncut stone
- 8.6 Council Environmental Health officers have undertaken a series of independent and unannounced noise surveys at various points around the site since the application was submitted in order to assess the impact of the site on the occupiers of nearby residential properties and to evaluate the figures obtained by the applicant's noise consultant.
- 8.7 The conclusion of those surveys did not vary significantly from the applicants final submission and further identified that;
- Noise from stone curing on the site is intrusive at Green Acres to the east of the site
 - Noise from stone handling and vehicle movements is intrusive at Green Acres
 - Noise from HGV movements and other vehicle movements during early mornings and late evening is likely to be intrusive Station House, Willow Copse and Green Acres.
 - It was also noted that intrusion on the roadway from parked HGV's and stone slurry run off has been much reduces.
- 8.8 Given the observed and recorded levels of these recognised impacts your Environmental Health Officer is satisfied that they may be adequately controlled by the imposition and, if necessary enforcement of effective conditions on a planning approval and has suggested a number of conditions.
- 8.9 These findings are acknowledged by the applicant and the suggested conditions, which include limiting the hours of operation of the site to 08:00-18:00 Monday to Friday only, have also been accepted. In terms of its scale and impact therefore, it would appear that the continued use of the site in the manner proposed can be adequately mitigated and made acceptable in terms of its impact on surroundings and neighbouring amenities.
- 8.10 The unauthorised open fronted work shelter building does not itself raise any significant planning issues since it is well screened by screen planted bund which surrounds the whole site. However it is suggested that it should be given a closed front to contain the noise of the activities carried on within it.
- 8.11 This is an established rural employment site, serving the needs of not only this District, but also South Cumbria and Craven Districts. It is well located between these, on principle roads connecting Cumbria and Scotland with West Yorkshire. In visual terms the impact of the site on the surrounding rural area is limited by the significant mature landscaping and bunding which surrounds it. In terms of policy and planning guidance it is possible to identify policies which would argue both for and against the development. In this regard it is considered that the fact this is not a new isolated development but a continuation of a use on a well established small but intensive rural industrial site is critical in considering the principle of the proposal and would militate in favour of approval.
- 8.12 If the principle in locational terms is accepted the Committee must determine the acceptability or otherwise in terms of the impact on nearby neighbours and whether this can be effectively managed through the imposition of planning controls. There are some noise issues emanating from on site activities but the main course of nuisance is created by activities, vehicle reversing, unloading etc taking place off the site on the access road. This is a result of the site being overdeveloped and leaving insufficient room for loading unloading and turning.. The revised plans seek to address this providing specific maintained areas for specific activities. The key to effective control of this will be an acceptance by the applicant of the need to scale down his activities at the site and monitoring and enforcement of appropriate conditions if necessary. Clearly activities at the site have been reduced during the application processing period and it is hoped that this is an indication of future intent.

9.0 Conclusions

- 9.1 This application has come about through the consequences of the sudden and rapid expansion in the activities of an otherwise well established (though unauthorised) rural business, on an equally well established light industrial estate in the rural area. The development currently supports 23 full time employees from the surrounding rural area of Lancaster, South Cumbria and Craven District.
- 9.2 There are no objections to the development from statutory consultees. Most importantly the Environmental Health Service, after undertaking independent noise assessments, has concluded that with the imposition of suitable conditions both to control activities within the site and prevent unauthorised activities taking place on the access road and other areas they would not raise objections to the development.
- 9.3 It would appear that the activities surrounding the use and operation of the site can be modified in such ways that remove the causes of disturbance and detrimental impact upon the neighbouring residential neighbours, it would also appear that the site operator (the applicant) is willing to implement these changes and to abide by a raft of conditions designed to regulate these activities, within and around the site in an enforceable context. In these circumstances it is difficult to oppose the development on planning grounds and it is therefore recommended for conditional approval.
- 9.4 The conditions below, are aimed at ensuring the business can operate without detriment to neighbours amenity and include, amongst others, measures to control and regulate the internal layout of the yard, prevent the use of access road for work purposes, control hours of operation, provide a management plan to regulate traffic movements, provide enclosed buildings for stone cutting operations, stabilisation of the embankment and other measures to ensure minimum disturbance.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Amended site plan 9-11-09.
2. Development in accordance with submitted plans and details.
3. Hours of operation and all vehicle movements to and from site limited to 08:00 to 18:00 Monday to Friday only - no working or deliveries Saturday, Sunday or Bank Holidays.
4. Approved Layout, including turning space and car parking spaces (details of which must be formally agreed in writing), to be fully implemented within 2 months of the date of the consent and retained at all times thereafter
5. No commercial activities associated with the use/development to take place outside the site curtilage.
6. A Traffic Management Plan (aimed primarily at incorporating the proposal to regulate HGV arrivals and departures and also ensuring that no HGV's, vehicle bodies, trailers, skips or other vehicles associated with the operation of this use are to be parked, loaded or unloaded and the estate access road, or any section of the old A65 or Long Lane) shall be submitted to and agreed in writing by the local planning authority, and then shall be subsequently implemented in full within 2 months of the date of the consent. The Management Plan shall then be adhered to at all times thereafter.
7. All vehicles used on site to be fitted with "white noise" or similar, reversing alarms.
8. Wheel wash facility at site entrance, designed to prevent runoff of slurry water onto the road surface shall be provided within 2 months.
9. A Site Activities Management Plan, including:
 - A scheme to control dust;
 - A detailed scheme of measures (e.g. use of lifting gear and absorbent rubber matting) to reduce noise associated with the impacts of stone handling, loading and unloading;
 - Confirmation that all stone cutting, splitting, tumbling, finishing and polishing operations shall take place within the enclosed buildings identified as being appropriate by the local planning authority; and,
 - Confirmation that all stone cutting machines shall be fitted with 'super silent' saw blades at all times.

Shall be submitted in writing to the local planning authority within 2 months of the date of this

consent. The approved scheme shall then be fully implemented within 4 months of the date of this consent, and shall be adhered to in full at all times thereafter.

10. Within 2 months of the date of this consent, details of a retaining wall to be built along the entire inner face of the site screen bund shall be submitted in writing to the local planning authority. The approved scheme shall then be constructed in accordance with the agreed details within 8 months of the date of this consent, and the wall shall be retained in full at all times thereafter.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.