



Applicants:  
The Tannen Group

Application No:  
10/0150/FULWND

Date Registered:  
21/09/2010

Expiry Date:  
21/12/2010

Grid Ref:  
456703 (E) 264210 (N)

Ward: Abbey North

# Daventry UDA Planning Committee Paper

Report by Director of Planning Services

Date of Committee Meeting: 5<sup>th</sup> April 2012

Agenda Item: 4

Description: Change of use of Units B, C and D from General Industrial Use (Use Class B2) to Storage or Distribution (Use Class B8) and the erection of a 3.5m high acoustic fence.

Address: Units B, C and D, Daventry Interchange, Sopwith Way, Drayton Fields, Daventry, Northants, NN11 8PB

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## 1. Recommendation

1.1 The application be **Approved** for the following reason:

The proposed development would comply with the industrial designation of the site and would safeguard the amenities of surrounding residential occupiers in compliance with retained Policies GN2 and EM4 of the Daventry Local Plan (1997) and the guidance contained within PPS4: Planning for Sustainable Economic Growth and PPG24: Planning and Noise

## 2. Description of Site

2.1 Sopwith Way is an established industrial estate located approximately 1.5km to the north west of Daventry Town Centre. The site lies within an area allocated for industrial development under Policy EM4 of the Daventry District Local Plan.

2.2 The application site comprises a complex of three detached industrial buildings at the northern edge of Sopwith Way. The current B2 use of the 3no. units is unrestricted in the sense that there are no planning conditions in place to govern the way in which the site is operated (e.g. restricted hours of operation). There is residential development to the north of the site (Highlands Drive). The site is separated from it by a

pedestrian/cycle link to the town centre; the gap between the site and the rear elevations of these dwellings is approximately 40m. There is also residential development to the east of the site (Dennetts Close), which is separated from the application site by a linear park – the gap is approximately 40-50m. These properties to the east of the site have been recently built as part of a residential redevelopment of the former Ashby Road Nursery (Outline ref: DA/2004/1127 and Reserved Matters ref: DA/2006/0314).

- 2.3 Of the three existing buildings on site the largest (Unit B) is sited adjacent to the northern boundary and has lain vacant for a period of approximately 5 years, the smallest (Unit C) is sited just to the south of Unit B and is actively operated, while Unit D sits close to the southern boundary (abutting other extant industrial uses) and is operated by a steel fabricator.
- 2.4 Unit A is located to the immediate west of the application site and shares an access on to Sopwith Way with Units B, C and D. Unit A, which is currently vacant, already benefits from an unrestricted B8 use (DA/96/0654) and does not fall within the application site.

### 3. Description of Proposal

- 3.1 The application seeks permission for change of use of the three units from General Industrial use (Use Class B2) to warehouse, storage and distribution (Use Class B8). The application forms indicate that the use will be for 24 hours a day, 7 days a week. Although the end users are not known the application form indicates the provision of 110 jobs over and above the existing provision of 157. During the application process the plans were amended to include the imposition of a 3.5m acoustic barrier to the northern and eastern boundaries of the application site.

### 4. Policy Considerations

#### WNDC Purpose:

- 4.1 Under S136(1) of the Local Government Planning and Land Act 1980, WNDC as an Urban Development Corporation has a statutory “objective” to deliver the regeneration of the area. The Secretary of State has determined that WNDC should have development control powers for certain types of development in order to carry out its objective. The proposal is consistent with the Corporation’s objectives.

#### National Policy:

- 4.2 PPS1: Delivering Sustainable Development  
PPS1: Delivering Sustainable Development: Planning and Climate Change  
PPS4: Planning for Sustainable Economic Growth

PPG13: Transport

PPG24: Planning and Noise

PPS25: Development and Flood Risk

**Relevant Development Plan:**

- 4.3 DDC Local Plan (1997): Policies GN1, GN2, EM4, EN35

**Other Material Considerations:**

- 4.4 WNDC Planning Principles (2009): Set out in this document are WNDC's three corporate objectives: 1. To deliver development and infrastructure that enables regeneration and growth in Northampton, Daventry and Towcester; 2. To ensure that new development is supported by appropriate jobs, infrastructure and town centre regeneration; 3. To ensure that new development meets the Government's design quality and environmental standards and is integrated into existing communities.

WNDC Manual for Design Codes (2009)

WNDC Sustainability Manual (March 2010)

WNDC Planning Obligations Strategy (December 2008)

**5. Representations.**

- 5.1 DDC Development Control: Supportive of sustainable economic development in principle, but insufficient information has been submitted to demonstrate that it would not result in an adverse impact on the amenity of nearby residential properties arising from noise and disturbance from activities associated with a B8 use particularly at unsocial hours. (Comments made prior to the submission of a Noise Report).
- 5.2 DDC Environmental Health: Initial comments (20/10/2010): Objection on the grounds that the application will affect residential amenity in respect to noise disturbance. Warehouse units tend to create more night time noise due to HGVs arriving and leaving the site. When in operation, Unit A attracted a number of complaints from nearby properties. Statutory nuisance was being investigated when the premises were vacated. No noise mitigation scheme has been submitted, it is therefore assumed noise would continue unabated during night-time hours.
- 5.3 Further comments (06/12/2010): Comments in respect to the submitted acoustic report. The report relies upon the mitigation effects of the 3.5m barrier on the perimeter of the site, which does not form part of the application. There are no barrier calculations and a lack of information in respect to specific individual noises. Notwithstanding this, the noise rating levels are predicted to be up to 7.8dB above background levels which is likely to be too high given the history of complaints at the site. Any revised report needs to comply with the provisions of BS4142.

- 5.4 *Further comments (20/01/2011)*: Barrier calculations have still not been provided. There are still no details of whether the specific noise includes the noise of lorries reversing and manoeuvring and whether there'll be reversing alarms. No considerations of forklift trucks and refrigerated vehicles. The report does not comply with the BS4142 and does not adequately show that a barrier will offer significant protection to residents' amenity. Hours of use should therefore be prohibited between 2300 and 0700 hours.
- 5.5 *Further comments (22/02/2011)*: Still object to the use of the premises at night time as it may cause disturbance to nearby residents and a significant loss of amenity. A 5dB penalty has not been added to noise levels, which should be added given the likelihood of irregular noise patterns. The addition of the penalty would push noise levels as high as 12dB above background levels, which would mean complaints would be likely at Dennetts Close and at Highlands Drive.

The sound insulation to the new houses at Dennetts Close would have been suitable for the current use but may not protect residents from increases in noise due to this proposed change of use. The standard inherently takes into account any mitigation that may be offered by neighbouring residential properties.

- 5.6 *Further comments (28/02/2011)*: The prohibition on the use of the premises should be between the hours of 2300 and 0700; this is consistent with British Standards. Although a shorter use period is permitted by planning appeal decision notices associated with Unit A (i.e. no use between 2000 and 0800) it is felt that the exact location is different and therefore nationally applied standards are adequate in this case.
- 5.7 *Further comments (23/03/2011)*: It is expected that weekend background noise levels would be comparable to a Monday afternoon when the noise survey was carried out, an increased propensity for weekend complaints is not expected therefore. No further restricts on hours should be imposed. This does not prejudice any assessment of nuisance noise once the units are in operation. Refrigerated vehicles should be parked only in the area indicated within the acoustic report; vehicles with chillers should be prevented from being left on overnight.
- 5.8 DDC Planning Policy: No comments received.
- 5.9 Daventry Town Council: Noise associated with a 24 hour use will cause an unacceptable noise impact to nearby residential occupiers.
- 5.10 NCC Sustainable Transport (Highways): No objection in principle, although it must be ensured that all vehicles attracted to the site have room to park and manoeuvre within the confines of the site. Vehicles should not be either parked or waiting on the public highway.

- 5.11 Northants Police: No design issues regarding the proposal, the addition of a 3.5m fence will enhance the security of the site.
- 5.12 Cllr Gloria Edwards-Davidson: No comments received.
- 5.13 Cllr Barry Howard: No comments received.
- 5.14 Cllr Christopher Long: Objection, the properties are located in close proximity to residential housing. Residents have previously been subjected to unacceptable levels of noise. Operational hours of 0800 to 1800 would be tolerable. Sleep disturbance from late night lorry and forklift movements is not tolerable.
- 5.15 Wildlife Trust: No comments received.

## 6. Notifications and Responses

- 6.1 Neighbour notification letters were sent out to close proximity neighbours and 2no. site notices were erected adjacent to the site. The application was also advertised in the local press by virtue of being classified as a Major Development. 13no. responses were received and can be summarised as follows:
- The units are close to residential premises and are not suited to being used 24 hours per day given the noise that would be created particularly late at night by such means as reverse beeping, engines revving, hooking of trailers, air brakes, vibration, shouting, clanging, etc.
  - Quality of life would be affected.
  - Unbearable high levels of noise were experienced when Unit A was operational.
  - Rear garden areas would no longer be peaceful.
  - The use of HGVs would pose a risk to the quality of air.
  - The lights of approaching vehicles would also affect amenity.
  - The large units should be considered for replacement by smaller units or houses.
  - Should the application be approved restrictions should be put in place. The hours of operation should be restricted to not allow evening / late night operation.
  - The new housing estate at the former Dennett's Nursery needs to be taken into account.
  - The installation of a 3.5m acoustic barrier would not be sufficient given the proximity of residential properties.
  - The worst case scenario within the acoustic report underestimates the situation.
  - The installation of a 3.5m acoustic barrier would not be tall enough to reduce noise at the height of second floor bedrooms at Dennetts Close.
  - All lorry drivers should be requested that they switch off their engines whilst waiting on or around the site.
  - The acoustic barrier stops at the south corner of the site, could this follow the return of the site boundary back to Sopwith Way to guard against sound leakage.

## 7. Site History

DA/2009/0220 Construction of acoustic fence along north east boundary (Approved)

DA/2006/1178 Freestanding non-illuminated sign (Advert Approval)

DA/2005/0024 Outline application for warehouse unit (Refusal)

DA/2004/1196 Variation of Condition 2 of planning permission DA/2004/0320 relating to hours of operation restriction in the area to the rear of Unit A (Refusal)

DA/2004/0320 New delivery loading / unloading docks to Unit A. New car parking / lorry bay and ancillary alterations (Approval)

DA/2003/1312 Change of use of Unit D to Class B8 (storage and distribution) purposes (Withdrawn)

DA/2003/1179 Installation of six loading bays, roller shutter doors and new cladding / facing brickwork (Withdrawn)

DA/1996/0654 Change of use of Unit A from B2 to B8 (Approval)

## 8. Considerations

**The key points for consideration are: Principle, Noise & Amenity, Visual Impact, Ecology, Access & Highways, Crime Prevention, Sustainability**

### Principle

- 8.1 The application site lies within an area allocated for industrial development under Policy EM4 of the Daventry District Local Plan. This policy seeks to safeguard existing B1, B2 and B8 uses in such areas by setting a presumption against changes of use to uses that fall outside of the aforementioned use classes. In this context the principle of changing from B2 to B8 usage is considered acceptable.
- 8.2 In addition, Policy EC10 contained within PPS4: Planning for Sustainable Economic Growth urges Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic growth and states that impact upon local employment should be considered.

### Noise & Amenity

- 8.3 Noise considerations have been of key importance during the progression of this application. The application site is located in relatively close proximity to residential dwellings; accordingly the application has attracted a notable level of local interest with 12no. nearby occupiers having submitted objections to the application on the grounds of expected harm to their amenity. The fact that the application proposes a

24 hour, 7 day a week operation is the factor that is causing residents significant concern given the potential for operational noise to occur late at night so as to potentially disturb sleep.

- 8.4 PPG24: Planning and Noise guides local planning authorities on how to use their planning powers so as to minimise the adverse impact of noise. Paragraph 10 of PPS24 recognises that much development which is necessary for the creation of jobs will generate noise and that the planning system should not place unjustifiable obstacles in the way of such development. The same guidance does however state that it must be ensured that development does not cause an unacceptable degree of disturbance and that appropriate conditions should be considered where necessary. In essence job-creating development should be supported, but not at the expense of causing an unacceptable degree of disturbance to the detriment of residential amenity.
- 8.5 The planning history of the site is of particular relevance in the context of noise and the proposed B8 use. The currently vacant Unit A, which is not located within the red line area of the application site, benefits from an unrestricted B8 (Storage & Distribution) permission (DA/1996/0654). Unit A has lain vacant for a notable period of time, but DDC colleagues have reported that – when occupied for B8 use – it gave rise to complaints from neighbouring residential properties that resulted in investigations by the Environmental Health department. Formal action was never pursued as it is understood that the building was vacated before the department could formally act.
- 8.6 A subsequent planning application (DA/2004/0320) was made for the adaption and improvement of Unit A (including the provision of new loading bays). This application was approved by DDC but with a condition attached restricting loading, unloading and vehicular movements to between the hours of 0800 and 2000 (in light of the noise complaints that had been received at this point in time). This approved development has never been implemented and therefore this condition is not binding on the current lawful use and operation of Unit A, which is for B8 (Storage & Distribution) use.
- 8.7 A further application (DA/2004/1196) was submitted with the intention of varying the aforementioned hours condition. This application was refused by DDC and the subsequent appeal was dismissed by the Planning Inspectorate. The Inspector's report noted the relevant noise assessment's findings and considered that the scheme would seriously affect the amenities of nearby residents if allowed to operate through night time hours.
- 8.8 A further application for an acoustic barrier along part of the northern boundary of the site (immediately adjoining Unit A) was approved under reference DA/2009/0220. This application sought to mitigate the noise impacts of the site's operations, but has never been implemented.
- 8.9 In light of the planning history discussed above there are clearly immediate concerns associated with this new application for the unrestricted B8 (Storage and Distribution) use of Units B, C and D. The DDC Environmental Health department (EHO) were

consulted upon the application documents and have been engaged throughout the planning process in light of amendments to the scheme and the submission by the applicant of a number of Noise Report documents.

- 8.10 The EHO initially objected on the grounds of noise disturbance and the night time use of HGVs that are associated with B8 operations. The EHO also requested a noise mitigation scheme. The scheme was subsequently amended to incorporate a 3.5m timber acoustic barrier to the entirety of the northern and eastern boundaries of the site. It should be noted that a notable extent of the proposed northern barrier already has planning approval associated with Unit A under reference DA/2009/0220. A Noise Report was also formulated and submitted for consideration.
- 8.11 The initial Noise Report was considered by the EHO to be overly reliant upon the mitigation effects of the acoustic barrier and also did not offer detail associated with specific noise events (e.g. maneuvering HGVs, reversing alarms, forklift truck movements, etc). It was stated by the EHO that the earliest versions of the Noise Report were not compliant with the relevant British Standards (BS4142).
- 8.12 In February 2011 the final version of the applicant's Noise Report was submitted, which is comprehensive and contains calculations of existing ambient and background noise levels surrounding the site in the daytime and in the night-time. The lowest measured daytime value was 42dB and the lowest measured night-time value was 28.2dB. Measurements were taken between the approximate hours of 1330-1630 and 2300-0300 respectively. It should be noted that British Standard 4142 provides a method to determine whether a noise source is likely to give rise to complaints from nearby residential properties. If noise levels are recorded as 10dB or more above background levels this is an indication that complaints are likely. If the levels are around 5dB above background this is of marginal significance.
- 8.13 A full examination of potential noise sources is then contained within the final Noise Report. The purpose of this is to understand the potential cumulative noise source in comparison to background noise levels. As urged by the EHO in discussions with the applicant, it is important to understand a worst-case scenario in the event that all noise events occur simultaneously on-site. This examination includes HGV movements, impulsive noise events, forklift truck / unloading activities and noise from refrigerated trailers. Worst case scenarios have been formulated by the applicant for each of the aforementioned activities; this includes 2no. HGV movements, 1no. impulsive noise event, constant forklift truck activity and a refrigerated trailer parked adjacent to both Units B and D (over a 5 minute assessment period).
- 8.14 The specific noise sources have then been inserted into the applicant's calculation model and initial noise impact results have been calculated. In respect to surrounding residential property, the highest noise value calculated is 49dB at the first floor level on Highlands Drive (to the north of the application). All calculations at selected residential locations on Highlands Drive and Dennetts Close give results of over 40dB. This is

more than 10dB above recorded night-time background noise levels (28.2dB), which would be considered likely to lead to complaints.

- 8.15 The following section of the final Noise Report contains additional mitigation measures. These include the imposition of a 3.5m acoustic fence of a minimum density of 18kg per sq m along the entirety of the northern and eastern boundaries of the site. In response to a comment raised by a local neighbour, the barrier is now also proposed to follow a short distance along the southern boundary of the site in order to ensure that sound leakage from the site is minimised. It is also proposed that refrigerated trailers are only to be parked within a designated area away from residential property and that loading and unloading activities are only to be permitted inside Unit B between the hours of 2300 and 0700. The revised noise model contained within the Noise Report indicates that the worst effected residential façade (on Dennetts Close) would have a calculated noise value of 35dB. This is 7dB above the night-time background noise level of 28.2dB.
- 8.16 The EHO has continued to object to the use of the premises at night time as it may cause disturbance to nearby residents and a significant loss of amenity. They have stated that a 5dB penalty (required by British Standards) has not been added to noise levels, which should be added given the likelihood of irregular noise patterns. The addition of the penalty would push noise levels as high as 12dB above background levels, which would mean complaints would be likely at Dennetts Close and at Highlands Drive to the east and north of the application site respectively.
- 8.17 The EHO has concluded that the premises should not be operated between the hours of 2300 and 0700; this is consistent with British Standards. This timeframe is also noted within PPS24: Planning and Noise as being of particular sensitivity given that these are the hours that people are normally sleeping. The applicant has agreed for such a restriction to be imposed by way of an appropriately worded planning condition.
- 8.18 As discussed at the beginning of this section of the report, there is a restrictive condition attached to DA/2004/0320 for Unit A. This restricts activity to between the hours of 0800 and 2000. Officers do not consider that the same extent of restriction should be applied in this instance. The EHO is in agreement that nationally applied standards are adequate. It should be noted that Unit A is in a slightly different location and is of a notably larger scale than Units B, C and D combined. A robust and comprehensive Noise Report has been produced that demonstrates that unacceptable noise impacts only become an issue during night time hours.
- 8.19 The EHO was also asked by Officers if he considered than any extra restrictions upon hours of use should be applied at weekends and bank holidays given that these are the times when residential occupiers may most likely be at home. The EHO stated that there would not be expected to be an increased propensity for complaints at weekend and pointed out that this stance does not prejudice any assessment of nuisance noise once the units are in operation (i.e. outside of the planning process). The EHO has also stated refrigeration vehicles should be parked only within the designated area

contained within the Noise Report and such vehicles should not be left on overnight. Officers consider that these requirements can be imposed by way of an appropriately worded planning condition.

- 8.20 It is also important to consider that the application site currently benefits from an unrestricted consent for B2 (General Industrial) use. All 3no. of the Units contained within the application site could quite legitimately be used through the night in a General Industrial capacity without any additional consent. Such uses can often entail noisy industrial activities. An appropriate hours restriction needs to be drawn in this context, which is why anything over and above the EHO's recommendation would be considered by Officers to be overly onerous.
- 8.21 Officers also note the assertions of PPS4 and its positive stance in respect to encouraging economic development. The applicants have strived to attain a 24 hour use of the site in the belief that the site shall be very difficult to market for prospective B8 (Storage & Distribution) users in the absence of an unrestricted permission. Officers have some sympathy with this position and accept that finding an end user(s) for the site may be more problematic with an hours of use restriction imposed, but conclude that an open permission would be to the detriment of the residential amenity of adjoining occupiers and cannot be considered in this instance.

### **Visual Impact**

- 8.22 The proposed acoustic barrier would stretch the entire northern and eastern boundaries of the site and would be of a notable 3.5m in height. Views are, however, restricted by virtue of dense landscaping running the outside of both of these boundaries. The only clear views of the new barrier would be from within the site itself and from the entrance into the site from Sopwith Way. Views from the entrance would only be fleeting in nature given the footprints of the Units within the site itself. Officers consider that the visual impact would be negligible and therefore acceptable.

### **Ecology**

- 8.23 The applicant has prepared an Ecological Statement by virtue of the new barrier to be installed and its potential impacts upon biodiversity and foraging patterns. Immediately to the north of the application site and adjacent to the proposed fence is located a wooded area surrounding the former Daventry to Braunston railway line. This strip is designated as a County Wildlife Area under retained Policy EN35 of the Daventry Local Plan. This states that planning permission will not be granted for development which would affect ecologically important sites.
- 8.24 Officers consider that the proposed barrier would actually help in separating the designated area from the industrial estate that contains the application site. The applicant's assertions that only minor ground work shall be required to erect the barrier and that no damage shall occur to tree routes within the vicinity is accepted. The application is considered acceptable in an ecological context subject to a planning condition being imposed to ensure that existing trees and hedgerows contained within

the County Wildlife Site are adequately protected during works to erect the acoustic barrier.

### **Access & Highways**

- 8.25 No alterations are proposed to extant access arrangements to any of the Units. A single joint access is in position on Sopwith Way whilst loading docks serve each of the Units. The applicant has stated that the proposed change of use would not be expected to lead to a material difference in the number of lorry movements generated. This is in light of the relatively small size of the Units, which are not of sub-regional or strategic importance. NCC Highways have accepted this stance and offer no objection subject to it being ensured that adequate room is afforded to parking and manoeuvring vehicles. The site is spacious and contains notable hardstanding areas suitable for manoeuvring HGVs. No Travel Plan has been submitted nor requested, this is considered to be acceptable given that no new floor space is being created in this instance.

### **Crime Prevention**

- 8.26 Northants Police have commented that the imposition of a 3.5m acoustic barrier would improve the security of the site.

### **Sustainability**

- 8.27 Given that no construction work is proposed (with the exception of the acoustic barrier), it is considered onerous to insist upon any specific sustainability measures being installed in this instance.

## **9. Conclusion**

- 9.1 The proposed development would comply with the industrial designation of the site and would safeguard the amenities of surrounding residential occupiers in compliance with retained Policies GN2 and EM4 of the Daventry Local Plan (1997) and the guidance contained within PPS4: Planning for Sustainable Economic Growth and PPG24: Planning and Noise

## **10. Conditions**

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

**Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule 1 of this permission.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

3. The use hereby approved including any vehicle movements and deliveries to and from the building shall at no time be operated in any capacity between the hours of 2300 and 0700.

**Reason:** In the interests of safeguarding the amenities of neighbouring residential occupiers in compliance with retained Policy GN2 of the Daventry Local Plan (1997) and the guidance contained within PPG24: Planning and Noise.

4. Refrigerated vehicles on-site shall at no time be parked outside of the area designated within Appendix 8 of the approved Noise Report (B6414/ENV/A1) which is located between the entrance to the site and Unit D. Such vehicles and their refrigeration units shall at no time be left running between the hours of 2300 and 0700.

**Reason:** In the interests of safeguarding the amenities of neighbouring residential occupiers in compliance with retained Policy GN2 of the Daventry Local Plan (1997) and the guidance contained within PPG24: Planning and Noise.

5. Full details of the approved 3.5m acoustic barrier including its design, appearance and means of construction shall be submitted to and approved in writing by the Local Planning Authority; the barrier shall be erected in full accordance with the approved details prior to the first occupation of the development and shall be retained at all times thereafter.

**Reason:** In the interests of safeguarding both visual and residential amenity and to avoid any negative affects occurring upon the designated County Wildlife Site located to the north of the application site.

6. All existing trees and hedgerows contained within or immediately adjoining the site shall be protected for the duration of construction works to erect the acoustic barrier hereby approved by way of (a) stout fence(s); the details of the proposed type and a plan detailing the proposed position of the protective fencing shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall be erected and maintained in accordance with the approved details and shall remain in place until all equipment, machinery and surplus material have been removed from the site.

**Reason:** In order to ensure adequate protection of existing trees and hedgerows, including those contained within a designated County Wildlife Site, in the interests of achieving a satisfactory standard of development and maintaining the amenity of the locality.

SITE PLAN

