

ITEM:		RECOMMENDATION:	APPROVAL
REF NO:	3PL/2017/1468/F	CASE OFFICER	Natalie Levett
LOCATION:	GRESSENHALL Smithy House, The Green Gressenhall	APPNTYPE:	Full
APPLICANT:	GT Bunning & Sons Ltd Smithy House, The Green Gressenhall	POLICY:	Out Settlemnt Bndry
AGENT:	Plandescil Ltd 42-44 Connaught Road Attleborough	ALLOCATION:	N
PROPOSAL:	Construction of an additional concrete yard to include the removal of five trees (including four Oak Trees the subject of Tree Preservation Order 2016 Number 13) and a length of hedgerow along the northern boundary	CONS AREA:	N
		LB GRADE:	N
		TPO:	Y

REASON FOR COMMITTEE CONSIDERATION

The application is referred to committee because it is recommended for approval contrary to Policy.

KEY ISSUES

- Principle of Development
- Design and Impact on the Character and Appearance of the Area
- Amenity Impact
- Impact on Trees
- Highway Impact

DESCRIPTION OF DEVELOPMENT

Construction of an additional concrete yard to include the removal of five trees (including four Oak Trees the subject of Tree Preservation Order 2016 Number 13) and a length of hedgerow along the northern boundary.

SITE AND LOCATION

The site is located outside of any Settlement Boundary and falls within the countryside as identified by the proposals maps. No designations cover the site.

The application site consists of parcel of land approximately 0.66 hectare, which is part of the wider parcel of land owned by G T Bunnings and Sons Limited. The site is described on the application form as "grassland and unmade earth surface". The site gently slopes to the north east.

The northern boundary of the application site comprises established hedging and two trees (one Oak Tree the subject of a Tree Preservation Order and one Field Maple), although four other Oak trees along the same

line outside of the application boundary are covered by the same TPO.

To the east the site is bordered by an existing concrete area. To the south and west is a recently (2016/2017) created earth bund with a new hedgerow planted. An additional 11 trees are indicated to be planted, but their details have not been provided.

EIA REQUIRED

Not required.

RELEVANT SITE HISTORY

- 3PL/2017/0876/VAR: Variation of conditions 2, 6 & 9 on 3PL/2016/0361/F (Additional hardstanding & floodlighting details submitted) - refused
- 3DC/2017/0124/DOC: Discharge of conditions 4 on 3PL/2016/0361/F - Discharged in Part.
- 3DC/2017/0005/DOC: Discharge of conditions 3, 4, 5 & 9 on 3PL/2016/0361/F - determined - some discharged in full and some in part.
- 3PL/2016/1227/VAR: Variation of conditions 2, 3, 6, 7 & 8 on planning permission 3PL/2016/0361/F - refused and Dismissed at Appeal.
- 3PL/2016/0361/F: Change of use of land to fabricated machinery standing - approved.
- 3PL/2014/0082/F: Minor material amendment variation condition number 2 on 3PL/2013/0855/F - Revised layout and design - approved.
- 3PL/2013/0855/F: MMA to 3PL/2011/0509/F - Revised design and canopy increased in size - approved.
- 3PL/2011/0509/F: Proposed new workshop building together with mess facilities and toilets - approved.

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

CP.03	Employment
CP.09	Pollution and Waste
CP.10	Natural Environment
CP.11	Protection and Enhancement of the Landscape
DC.01	Protection of Amenity
DC.07	Employment Development Outside of General Employment Area
DC.12	Trees and Landscape
DC.16	Design

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance

OBLIGATIONS/CIL

Not applicable.

CONSULTATIONS

GRESSENHALL P C

No objections.

NORFOLK COUNTY COUNCIL HIGHWAYS

No objection based upon the information submitted.

TREE AND COUNTRYSIDE CONSULTANT

With regard to the additional information submitted, whilst it is the most convenient route, there is not an overriding justification for the loss of the TPO tree to be felled because other options are possible and the proposal, therefore, does not comply with Policy DC12.

REPRESENTATIONS

A Site Notice was displayed on 02-02-2018. Nearby neighbours were directly notified by letter. No representations have been received.

ASSESSMENT NOTES

1. Principle of Development

1.1 Policy DC7 relates to employment development outside of General Employment Areas and details that employment development will only be permitted where:

- a) it is demonstrated that there are no other suitable sites available on identified or allocated employment sites;
- b) there are particular reasons for the development not being located on an established or allocated employment site including:
 - i) the expansion of an existing business;
 - ii) Businesses that are based on agricultural, forestry or other industry where there are sustainability advantages to being located in close proximity to the market they serve; or
 - iii) Industries and/or businesses which would be detrimental to local amenity if located in settlements, including general employment areas.

c) the development of the site would not adversely affect the type and volume of traffic generated.

The proposal is part of the wider site for GT Bunning & Sons. They are a long-established firm of agricultural engineers. The application submission states that their primary business is the manufacture of manure spreaders, which are sold throughout the UK and export markets worldwide and the business is expanding due to product demand. The new hardstanding area with drainage channel would be used for the standing of work-in-progress units and the loading of completed spreaders onto trailers for final dispatch. The remainder of the wider business site will remain unchanged.

1.2 Due to the above, it is considered the development meets the exception criteria of Policy DC7(b)(i). Criteria DC7(a) is not met, however, it would be illogical to suggest there waiting to load and storage area should be somewhere off site in an allocated employment area.

1.3 A further consideration is that business land use has already been approved. More specifically, the application site was granted change of use from agriculture to land associated with the engineering business in 2016 (reference: 3PL/2016/0361/F).

1.4 The NPPF supports the sustainable growth and expansion of businesses in rural areas.

1.5 Due the nature of the proposal, that of an expansion of a viable business at their current premises, the land already having planning permission for use as part of the business, and the need to be co-located, it is considered that the principle of development is acceptable.

2. Design and Impact on the Character and Appearance of the Area

2.1 The proposal will create a new area of hard standing and requires removal of existing trees. However, the site will not be readily visible from the adopted highways or any rights of way. In addition, new planting is proposed and the development when it is visible will be seen in the context of an existing commercial premises.

2.2 Whilst hardstanding should be avoided where possible, in this instance its needs has been justified and the new planting provides sufficient mitigation. Based upon the above, it is considered that the design and impact on the character and appearance of the site is acceptable.

3. Amenity Impact

3.1 Policy DC1 seeks to protect the amenity of the area and neighbours.

3.2 The location of the site subject of this application is such that is it is not directly visible from most public viewpoints. Properties are sufficient distance from the site to not be adversely impacted by this development.

3.3 The application form states that the hours of operation are as Mondays to Saturdays 0700 - 1800hrs with no operations taking place on Sundays and Bank Holidays.

3.4 Once the proposed concrete is laid, the site would be used for the standing of work-in-progress units and the loading of completed spreaders onto trailers for final dispatch. This would mean that no external working to machinery to create adverse noise or noxious pollution would be generated. There will be vehicle

movements around the site which will give rise some noise, however, the distance to neighbours provides sufficient mitigation. Furthermore, there is existing noise generated by the existing situation which is closer to neighbours.

3.5 As a result, it is considered that the proposal complies with Policy DC1.

4. Impact on Trees

4.1 Policy DC12 seeks to protect the District's Trees and Hedges.

4.2 The proposal involves the loss of a Field Maple tree to the north-west corner together with five Oak Tree which are covered by a Tree Preservation Order (TPO) to the north boundary and a hedgerow also along the northern boundary to allow for access through to the existing concreted area. The TPO trees are category 'B' which British Standards define as "trees of moderate quality or value capable of making a significant contribution to the area for 20 or more years". In comparison category 'A' trees are considered "high quality". The Field Maple Tree is Category 'C'.

4.3 A new boundary hedgerow has been planted on the earth bund that was created in 2016/2017 and eleven new trees are proposed to be planted along the earth bund.

4.4 The TPO was imposed because the site had been granted planning permission for a change of use of the land to fabricated machinery standing (under reference 3PL/2016/0361/F). The trees were protected for five years by condition. However, application 3PL/2016/1277/VAR sought to remove the trees and thus it was considered expedient, in the interests of the amenity of the locale to promote the retention of the trees by imposition of a TPO. The applicant appealed the refusal of 3PL/2016/1277/VAR, which was dismissed.

4.5 In the appeal regarding the loss of two the Oak Trees covered by the TPO, the Inspector stated that "The variation of Conditions 2, 3 and 6 would result in the loss of two mature tree specimens that form important natural features and part of a green backdrop and screen for the works. Although their removal would be hard to distinguish in public views given the distance and intervening buildings, they would diminish the screening of the existing works from the wider countryside. The provision of four oak trees along the southern boundary of the appeal site would provide compensation for the lost trees, but they would take time to reach maturity as would the other planting along this boundary. In the meantime, it would be important to retain the existing trees to help screen the existing works".

4.6 In that appeal decision, the Inspector also stated that "The enlarged gap and concrete pad would evidently improve vehicular manoeuvrability and provide additional space for standing and storage, but it has not been demonstrated that the size of the proposed gap is essential and the loss of the trees is unavoidable. A smaller enlarged gap could be provided without the removal of the two oak trees and still deliver the benefits of economic development and investment".

4.7 The Inspector concluded that Conditions 2, 3 and 6 were necessary "in the interests of the character and appearance of the area with regards to trees. Their variation would not accord with Policy DC12 of the Breckland Core Strategy and Development Control Policies Document which seeks to retain important natural features such as trees. The policy requires exceptional circumstances to be demonstrated where the benefit of development outweighs the benefit of preserving nature features. Such circumstances have not been demonstrated in this instance and it has not been proven that the loss of the two trees is unavoidable". The appeal decision was dated 9th June 2017.

4.8 Whilst the current proposal involve the loss of all four TPO trees as opposed to two TPO trees (T3 and T4), the same issues arise.

4.9 The applicant has justified the reasoning for the concrete pad area. However, in order to justify the loss of the TPO Oak Tree (T1), the agent has advised the following:

4.10 "The purpose of the additional yard area is for the storage of agricultural machinery manufactured on-site by the Applicant. These trailers can be up to 11m long, in addition to the vehicle moving them around the site. Articulated heavy goods vehicles with 12.2m long trailers will also need to manoeuvre between the existing and new yard areas, requiring them to pass through the area where the tree is currently sited whilst turning. To make efficient and safe use of the available area it is therefore necessary to have as large an open area as possible."

4.11 Separately to support the loss of the other four TPO Oak Trees they have stated:

4.12 "The land between the two sites will prohibit the use of the land as it was originally intended by the Applicant. G.T. Bunning & Sons Ltd operate a high volume of HGV's and large machinery around their site and leaving the existing trees in place would create very tight gaps in the hedge and dangerous blind spots on the site. The trees are also at a higher level than the existing site and proposed levels, meaning they would be up to 4m in the air at one point. Again, this would cause extreme health and safety and site management issues for drivers and workers alike. It was therefore, felt that advice should be sought to remove these trees to enable the business to continue to grow and operate in its intended manner."

4.13 If the oak trees were to be retained it would effectively form two traffic island between the new and existing yard areas which would significantly hinder and restrict vehicle movements. The Oak Tree 1 is situated on ground which is higher than the adjacent yard level, therefore to retain the 8.8m radius root protection area and provide an embankment around it the agent has advised that the diameter of the island would need to be 26.6m. This is more than one third of the length of the junction between the new and existing concrete areas and the Applicant would find this to be a serious obstruction to the free and safe movement of equipment around the yard.

4.14 The Applicant does appear to be appreciative of the importance of trees within the local landscape. To this end, they have retained as much as possible of the existing hedge and mature trees and they propose to plant new trees around the site boundary in addition to the recently planted hedgerow.

4.15 The applicant submitted an email from the Leader of the Council supporting the application and asked that this be included as part of the submission. Whilst this could be put forward for information, the email cannot be considered as part of the application submission.

4.16 The Tree and Countryside Consultant has advised that whilst the proposed route would be the most convenient route, it is not the only option. As a result, there is not an overriding justification for the TPO Trees to be felled and therefore is not supportive of the proposal.

4.17 When making recommendations on applications, a number of factors are taken into account. In this case, the previous appeal decision preventing the loss of TPO Trees T3 and T4 is particularly important together with the impact on the character and appearance of the area, as identified by the Planning Inspector. However, the previous application was not supported by any information or justification of why the loss of trees is necessary. Whereas this application they have set out the extent of root protection area, the size of vehicles needed to access the site and further details on health and safety as the trees will cause a visual restraint.

4.18 Whilst it is regrettable that the four Category 'B' TPO Oak Trees are to be lost to accommodate the development, sufficient evidence and justification has now be provided. In summary, the proposal is to support an established successful local business. Whilst the applicant has explored options to retain some of the TPO trees (T2 -T4) these have not been viable due to the necessary root protection areas, visual obstacles caused by the trucks and reducing turning areas for large vehicles including 11m articulated lorries. It is considered on balance, the economic benefits of the proposal of supporting the business is sufficient, together with the provision of new hedge row and tree planting is sufficient to outweigh the loss of the 4 protected oak trees and a Field Maple tree. Had the oak trees been British Standards Category 'A', then the planning balance judgement would have been likely to have come to a negative conclusion.

4.19 As a result, subject to conditions, the application can be supported in relation to loss of trees.

5. Highway Impact

5.1 Policy CP4 seeks to ensure safe access. Paragraph 32 of the NPPF requires access to be safe and suitable.

5.2 The site is accessed via the existing vehicular and pedestrian access from Bridge Street at the north-east part of the premises and no alterations are proposed. The new hardstanding area will be an extension to the existing yard areas.

5.3 The Highway Authority raised no objection based upon the information submitted.

5.4 As a result, the proposal is considered to comply with Policy CP4 and Paragraph 32 of the NPPF.

6. Planning Balance and Conclusion

6.1 The proposal is to lay a new concrete yard area to the southwest of the existing business premises. This is to include the removal of five trees, four of which are covered by a TPO and a length of hedgerow.

6.2 The principle of the development is acceptable and would allow the growth of the business to meet increasing demands for their products and would allow the site to operate more safely and efficiently. The development is considered to conform with the principles of the NPPF, particularly as this national guidance documents seeks to support rural businesses.

6.3 As aforementioned, the proposal will involve the loss of 4 protected Oak Trees and an established hedgerow. In order to compensate for this loss, the applicant will be planting eleven trees around the eastern, southern and western boundary where an earth bund has been created. It is acknowledged that this will take time to establish.

6.4 The application is recommended for conditional approval.

RECOMMENDATION

Planning Permission

CONDITIONS

- 3415** **Trees and hedges**
No trees on the site shall be lopped, topped, cut down, uprooted, felled, wilfully damaged or destroyed, without the prior written consent of the Local Planning Authority for a period of five years from the first occupation of the development hereby approved.
- Reason for condition:-
In the interests of the satisfactory appearance of the development.
- This condition will require to be discharged**
- 3548** **Full details of external lighting**
No permanent external lighting shall be erected on the site unless full details of its design, location, orientation and power have first been agreed in writing with the Local Planning Authority.
- Reason for condition:-
In the interests of visual amenity and to minimise unnecessary light spillage above and outside the development site, in accordance with Policy DC1 of the adopted Breckland Core Strategy and Development Control Policies Development Plan Document (2009).
- This condition will require to be discharged**
- 3007** **Full Permission Time Limit (3 years)**
The development must be begun not later than the expiration of THREE YEARS beginning with the date of this permission.
- Reason for Condition:-
As required by section 91 of the Town and Country Planning Act 1990.
- 3047A** **In accordance with submitted plans NEW 2017**
The development must be carried out in strict accordance with the application form, and approved documents and drawings as set out in the table at the end of this notice.
- Reason for condition:-
To ensure the satisfactory development of the site.
- 3414** **Fencing protection for existing trees**
Prior to the commencement of any work on the site, all existing trees that are to be retained shall be protected by the erection of Tree Protection Fencing. This fencing shall be retained throughout the period of the development and at all times when works (as defined below) are being carried out on the site.
- For the purposes of this condition "work" shall include the storage of plant, materials, site huts or the use of any machinery either for preparatory site work or construction itself.
"Trees" shall refer to all trees both on and adjacent to the site.
- Protective fencing shall be constructed and maintained in accordance with BS5837:2012 and the Council's document Practice Note: Construction and Maintenance of Tree Protection Fencing, which is available to download from the Council's website.
- Reason for condition:-

The works are required to be undertaken prior to the commencement of the development in order to safeguard the protection of trees from the outset of the development, in accordance with Policy DC 12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009

3460 Non-standard landscaping condition

Operations on site shall take place in complete accordance with the approved Arboricultural Implications Assessment & Tree Protection Plan prepared by Plandescil dated January 2018. This should include new planting as detailed in page 2 of the report. No other operations shall commence on site in connection with the development until the tree protection works and any pre-emptive tree works required by the approved AIA or AMS have been carried out and all tree protection barriers are in place as indicated on the TPP. The protective fencing shall be retained in a good and effective condition for the duration of the construction of the development and shall not be moved or removed, temporarily or otherwise, until all site works have been completed and all equipment, machinery and surplus materials removed from site, unless the prior written approval of the local planning authority has been sought and obtained.

Reason for condition:-

To safeguard the protection of trees from the outset of the development, in accordance with Policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009

3504 No power tools to be used outside specified hours

No plant or power tools shall be operated on the site unless otherwise agreed in writing with the local planning authority.

Reason for condition:-

In the interests of the amenities of adjoining residents, in accordance with Policy DC1 of the adopted Breckland Core Strategy and Development Control Policies Development Plan Document (2009).

3534 Hours restriction and no Sunday working

The use hereby approved shall not operate between the hours of 1800hrs and 0700hrs from Monday to Saturday, nor at any time on Sundays and Bank Holidays.

Reason for condition:-

In the interests of the amenities of the occupants of the nearby dwellings, in accordance with Policy DC1 of the adopted Breckland Core Strategy and Development Control Policies Development Plan Document (2009).

UR09 Non standard use restriction

Notwithstanding development permitted within Schedule 2 Part 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 or any subsequent re-enactments and amendments of, the development hereby permitted shall only be used for a purpose or purposes falling within use class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), unless planning permission has otherwise been granted by the Local Planning Authority.

Reason for condition:-

In the interests of highway safety and the provision of sufficient vehicle parking and to

prevent the use of the buildings for main town centre uses.

3450 Non-standard landscaping condition

Prior to the first use of the yard hereby permitted, details of the type and specimen of trees to be planted shall be submitted to and approved in writing. The trees, as approved, shall be carried out during the planting season November/March immediately following the first use of the yard. The details shall take account of the Council's leaflet "Tree pack" (Landscaping advice for applicants). Any trees or plants which within a period of 5 (five) years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of the same size and species unless the Local Planning Authority gives written consent to any variation.

Reason for condition:-

To provide for effective screening and protection of the landscape in accordance with Policies DC12 and CP11 of the adopted Breckland Core Strategy and Development Control Policies Development Plan Document (2009).

4000 Variation of approved plans

Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.

You or your agent or any person responsible for implementing this permission should inform the Development Control Section immediately of any proposed variation from the approved plans and ask to be advised to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new application.

2001 Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application, and by assessing the application against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal in as timely a manner as possible, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Copies of all documentation submitted in connection with this application can be viewed online at <http://www.breckland.gov.uk/content/planning-search-0>

2014 Criterion E - Planning Apps Where Approved

Appeals against planning decisions

If you are aggrieved by the decision of your local planning authority to attach any particular condition/s to this permission, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of

service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.co.uk

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.