

PART 6: Planning Applications for Decision**Item 6.3****1 SUMMARY OF APPLICATION DETAILS**

Ref: 20/01658/FUL
Location: 36 Oakwood Avenue, Purley, CR8 1AQ
Ward: Purley and Woodcote
Description: Demolition of a single-family dwellinghouse and erection of 4x two-storey semi-detached houses with accommodation in the roof, and 4x one-storey semi-detached houses with accommodation in the roof, with associated access, car parking, cycle and refuse storage.
Drawing Nos: DX04-S1-101B; DX04-S1-102A; DX04-S1-103B; DX04-S1-104A; DX04-S1-105A; DX04-S1-106A; DX04-S1-107A; DX04-S1-108A; DX04-S1-109A; DX04-S1-110A; DX04-S1-111A; DX04-S1-112A; DX04-S1-113A; DX04-S1-114A; DX04-S1-115A; DX04-S1-116A; DX04-S1-117A.
Applicant: Aventier Ltd
Agent: Mr Shervin Khazeni
Case Officer: Nathan Pearce

1.1 This application was first reported to Planning Committee on 10th September 2020. The Committee resolved to defer the application in order to allow members to make a site visit and officers to further assess the impact the construction period of the development would have on the neighbouring cattery business.

1.2 The original report is attached to this agenda item.

2 FURTHER INFORMATION RECEIVED

2.1 Since the Planning Committee meeting on 10th September 2020 the applicant has provided the following additional information to support their application and provide further detail on the construction process, its likely impacts and what mitigation measures can be put in place to reduce the impacts of construction as far as reasonably possible:

- Construction noise impact assessment
- Project construction programme timeline
- Planning statement
- A site plan annotated with key dimensions between the proposal and the neighbouring cattery business

2.2 Further consideration of the aforementioned information is included in section 4 of this report.

3 SUBSEQUENT ENGAGEMENT

- 3.1 In line with committee's recommendation site visits to the application site and the neighbouring cattery business by both officers and members were undertaken to better understand the relationship between the two sites as well as the operation and layout of the neighbouring cattery business.
- 3.2 Officers have also engaged with both the Council's environmental health and licencing teams in respect of the impact of the construction period upon the neighbouring cattery business. A summary of their comments is included below:
- *Environmental Health Officer:* The construction noise impact assessment submitted is satisfactory for noise control purposes and is accurate in its prediction of noise levels at the nearest sensitive receptor, including that at the neighbouring cattery.
 - *Licencing Team:* Cats must not be exposed to excessive noise and it is the duty of the licence holder to ensure the environment in which they are kept achieves this. There is no specific decibel level or a way in which one could be measured to assess the effect on a particular cat, with different cats reacting in different ways to different factors with any effects first becoming apparent through observation. Should noise be an issue, so long as the licence holder has taken all reasonable steps to mitigate any effects of that noise on the cats then the licencing authority would not take action against the licensee. If noise from a lawful activity nearby, for example a development, were to have an effect on the business, then this would be a civil matter that would need to be taken up with the developer and/or the owner of the land in question.
- 3.3 Additionally officers also coordinated a virtual meeting between the applicant, their noise consultant (the author of the construction noise impact assessment), and the owner of the neighbouring cattery business in order to allow both parties to discuss the issues further and to give the owner of the neighbouring cattery business the opportunity to raise questions directly with the applicant and their noise consultant.
- 3.4 A 14 day neighbour re-notification was also undertaken on 27.10.2020 to give neighbours the opportunity to comment on the additional information submitted. It should be noted that further revisions to the construction noise impact assessment were made subsequent to this date and no further re-notification on these revisions was deemed necessary, although the operators of the cattery were invited to comment on it.
- 3.5 No of individual responses to re-notification: Objecting: 13
- 3.6 Summary of additional representations from neighbours:
- Objections raising concerns for the welfare of the animals in Purley Cattery and the impact on the business during the construction phase
 - Concerns regarding the accuracy of the Construction Noise Impact Assessment
 - Concerns regarding parking stress and refuse arrangements

- Overdevelopment of the site and development out of character with the area
- Daylight and sunlight impacts on neighbouring properties
- Adverse impact on trees

3.7 Given the nature of the deferral reasons officers have in this instance separately summarised the additional representations made by the Purley Cattery:

- The submitted planning statement includes a number of false statements, in particular regarding the engagement between the applicant and the cattery
- The nearest sensitive receptors (NSRs) indicated in the construction noise impact assessment are shown in the wrong location [OFFICER COMMENT: The location of the NSRs was subsequently amended and all parties are now satisfied with this]
- Dispute regarding the accuracy of the noise levels that are likely to be experienced during the construction period
- The noise maps indicated within the construction noise impact assessment do not appear to be accurate and do not reflect where construction would take place [OFFICER COMMENT: The noise maps were subsequently amended]
- Concerns that only average noise levels as opposed to peak noise levels have been provided within the construction noise impact assessment [OFFICER COMMENT: The document was subsequently amended to include peak noise levels]
- The construction noise impact assessment does not take into account the fact that the structure the cats are housed within is more akin to a shed than a house [OFFICER COMMENT: The noise levels indicated in the submitted construction noise impact assessment are taken externally – i.e. they do not account for any structure and thus represent a worst case scenario]
- Concerns regarding the height, quality and effectiveness of the proposed acoustic fence [OFFICER COMMENT: The height of the acoustic fence has subsequently been increased and would be controlled by condition. Furthermore an additional acoustic barrier in the form of an ‘Echo Barrier’ has been proposed during phase 3 of the construction programme]
- Dispute regarding the accuracy of the distances indicated between the application site and the structures at the rear of the cattery
- The ‘Echo Barrier’ proposed is only for half the width of the rear garden of 36 Oakwood Avenue [OFFICER COMMENT: This has been raised with the applicant and they have indicated that they will extend this to the full width of the site with details to follow. This will be secured via condition]
- Could a condition be imposed which specifies the maximum noise levels generated by the construction site [OFFICER COMMENT: Such a condition would not meet the six tests outlined in paragraph 55 of the National Planning Policy Framework and thus cannot be imposed]
- Could a condition be imposed requiring the applicant to provide sound insulation to the cattery [OFFICER COMMENT: Such a condition would not meet the six tests outlined in paragraph 55 of the National Planning Policy Framework and thus cannot be imposed]

3.8 Summary of additional representations from Riddlesdown Residents Association:

- Additional site plan DX04-S1A-118B uploaded. [OFFICER COMMENT: This plan is not included in the approved plans list and has been provided for information purposes only to indicate the distance between the development and the structures at the rear of the cattery]
- The Construction Noise Impact Assessment is geared to human hearing and not for cats and also does not take into account the land level changes between the application site and the neighbouring cattery
- Distance indicated between the application site and the neighbouring cattery in the Planning Statement are incorrect

4 CONSIDERATION OF FURTHER INFORMATION RECEIVED

Construction Noise Impact Assessment + Construction Programme Timeline

- 4.1 The submitted construction noise impact assessment has been undertaken in accordance with the relevant British Standard requirements and includes a sound survey of the existing conditions at the rear of the application site (closest to the neighbouring cattery) which indicate noise levels of between 39db and 50db.
- 4.2 In order to ascertain the expected noise levels that would be generated during the construction period of the development, which according to the submitted construction programme timeline is anticipated to last for circa 12 months, the construction period has been split into 4 phases, with maximum noise levels for the equipment that would be expected to be used in each phase inputted into the sound model to generate expected noise level outputs. In addition a further assessment of the loudest phase of construction (phase 3), assuming that all equipment would be operating simultaneously at their maximum output levels, (i.e. a worst case scenario) has also been undertaken.
- 4.3 Sound maps modelling these outputs and also taking into consideration the construction of a 2.2m high acoustic fence between the boundary of the site have been provided for these 4 phases of construction as well as the peak assessment, and the results of the noise levels expected to be experienced at the rear elevation of the closest part of the cattery are as follows:

Construction Phase	Noise Level at Cattery
Phase 1 (Site setup)	53db
Phase 2 (Demolition)	60db
Phase 3 (Excavating and piling*)	66db
Phase 4 (Concrete delivery)	63db
Peak Assessment	70db

**Piling activities are only proposed to houses 1 & 2 (the furthest from the cattery) and will utilise augured piling as opposed to drop hammer piling*

4.4 Whilst the construction of a 2.2m high acoustic fence has been taken into account in this modelling (and will be secured via condition) there are a number of other mitigation measures proposed by the applicant as well as other factors not taken into account which would in reality further reduce these noise levels which are as follows:

- The aforementioned figures are taken on the external face of the structure housing the cats and do not take into account the fact that the noise levels within said structure would be lower. Given this structure is of timber construction with openings it is anticipated that noise levels internally where the cats are housed would be circa 12-15db below the figures.
- A plant and equipment exclusion zone of 4.5m-5.5m in width is proposed at the rear of the site (closest to the cattery) preventing noisy equipment being located close to the cattery. Said exclusion zone is one of the mitigation measures which will be secured via condition (see paragraph 6.4 of this report).
- An 'Echo Barrier' (an acoustic barrier which offers noise reduction and absorption) will additionally be erected along the boundary on the exclusion zone during phase 3 of the construction. This is another of the mitigation measures which would be secured via condition (see paragraph 6.4 of this report) and is additional to the acoustic fence on the boundary between the rear of the site and the cattery.

Planning Statement + Annotated Site Plan

4.5 The submitted planning statement details the applicant's engagement with other parties during the planning process and gives an overview of the submitted construction noise impact assessment including the mitigation measures proposed. Said statement also gives details of relevant appeal precedents as well as examples of catteries located in locations where higher noise levels are experienced.

4.6 In respect of relevant appeal precedents, of note is an appeal decision in relation to the construction of a new dwelling in close proximity to an existing cattery. The appeal was allowed and planning permission granted and officers wish to bring to members attention the following paragraph in the inspector's decision in respect of the impacts of the noise of construction upon the adjacent cattery:

"It is acknowledged that the construction of the proposed development could result in some disruption and nuisance for local residents, the adjacent cattery and the children's nursery. Such nuisance rarely weighs against the planning merits of a scheme, although it can be minimised through the imposition of appropriate conditions. In this instance the Council has suggest the imposition of various conditions which seek to control and minimise any noise, dust, vibration and other nuisance that could be generated during the construction works."

4.7 In respect of the examples of catteries located in areas where higher noise levels are experienced the statement details 6 other catteries in the wider area (across Surrey, West Sussex and Kent) which are sited in close proximity to busy roads and experience noise levels in the region of 60db-70db.

- 4.8 An annotated site plan has been provided which details the key dimensions between the site boundary and the proposed residential dwellings and the nearest structures within the cattery. This details that the distance between the site boundary and the nearest structures within the cattery is 2.2m, whilst the distance between the proposed residential dwellings and the nearest structures within the cattery is 9m.

Summary

- 4.9 On the basis of the construction noise impact assessment and other information available to officers (including responses from the Council's environmental health and licencing teams), officers are of the opinion that subject to the necessary conditions being imposed which include securing a number of mitigation measures, the proposed development (including its construction period) is unlikely to adversely impact the neighbouring cattery to the extent that the business would be unable to operate. Whilst officers can give no guarantee that this would indeed be the case the following factors should be borne in mind.
- 4.10 The peak noise level expected at the cattery is 70db, however other factors and mitigation measures would effectively reduce this level. There is no specific decibel level that can be used to ascertain at what point noise levels would be problematic for cats (and like humans each individual cat will react differently), however the cattery owner, from their own research, has suggested that this may occur once noise levels reach 65db, with the evacuation of the cattery potentially being necessary once noise levels reach 85db. If this were indeed to be the case then it is unlikely that these noise levels would be exceeded within the structures where the cats are housed and in the event that a specific cat was unduly stressed by the impacts of the construction of the adjacent development it would not be unreasonable to assume that said cat could potentially be relocated elsewhere within the cattery further away from the development site where noise levels would be lower. If the cattery considered that the impacts of the construction period were adversely impacting their business (e.g. loss of earnings), this could become a civil matter that would need to be taken up with the developer and/or the owner of the land in question.
- 4.11 In the opinion of officers the applicant has proposed all reasonable mitigation measures to reduce the impact of the construction period on the neighbouring cattery as far as possible. Given that the impacts of construction will only be for a temporary period (circa 12 months) and that such nuisance rarely weighs against the planning merits of a scheme – in this instance being the delivery of 8 new family homes – officer's recommendation to grant planning permission remains unchanged.

5 OTHER

- 5.1 Following a site visit it was suggested that there may be slow worms in close proximity to the site. As a precaution the Council's ecology consultant was contacted and has subsequently recommended that a reptile mitigation strategy be required as a pre commencement condition.

6 RECOMMENDATION

- 6.1 That the Committee resolve to GRANT planning permission prior to the completion of a legal agreement to secure the following:
- a) A financial contribution of £12,000 for improvements to sustainable transport including but not limited to on street car clubs with EVCP's and/or highway changes such as on street restrictions. Membership of car club for the units for 3 years.
 - b) And any other planning obligations considered necessary.
- 6.2 That the Director of Planning and Strategic Transport has delegated authority to negotiate the legal agreement and issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions

1. Time limit of 3 years
2. Development to be carried out in accordance with the approved drawings and reports except where specified by conditions
3. Construction Logistics Plan
4. Tree Protection Plan
5. Details of facing materials
6. Landscaping
7. Sustainable urban drainage details
8. Biodiversity Enhancement Layout
9. Electric Vehicle Charging Points
10. Cycle parking and refuse
11. Car parking
12. Windows restrictions
13. Visibility splays
14. Accessible units
15. Energy emissions
16. Conditions requested by ecology consultant including a reptile mitigation strategy
17. Land levels
18. Noise mitigation condition
19. Any other planning condition(s) considered necessary by the Director of Planning and Strategic Transport

Informatives

- 1)Section 106
- 2)CIL

- 3) Code of practice for Construction Sites
- 4) Light pollution
- 5) Nesting birds
- 6) Boilers
- 7) Refuse
- 8) Any other informative(s) considered necessary by the Director of Planning and Strategic Transport

6.3 That the Committee confirms that its reasons for granting Planning Permission are as set out in the Summary of Material Planning Considerations of the original report.

6.4 Full wording of construction logistics plan and noise mitigation conditions:

Construction Logistics Plan

Six weeks prior to the commencement of development (including demolition) a Construction Logistics Plan (CLP) shall be submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following information for all construction phases of the development:

- a) Hours of construction;*
- b) Hours of deliveries;*
- c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors;*
- d) Facilities for the loading and unloading of plant and materials;*
- e) Details of the storage facilities for any plant and materials;*
- f) The siting of any site huts and other temporary structures, including site hoardings;*
- g) Details of the precautions to guard against the deposit of mud and substances on the public highway;*
- h) Details outlining the proposed range of dust control methods and noise mitigation measures;*
- i) Details demonstrating compliance with the non-road mobile machinery (NRMM) regulations 2015.*
- j) Details of a scheme of resident notification of construction phases and progress, to include notification six weeks prior to commencement of development*

All construction phases of the development shall be carried out strictly in accordance with the details so approved.

Reason: To safeguard the amenity of surrounding residents and the area generally, and to prevent adverse impacts upon the transport network during the construction phase of the development.

This condition is required to be pre-commencement to ensure that all phases of construction do not adversely impact the amenity of surrounding residents and the area generally, and do not adversely impact upon the transport network.

Noise Mitigation

- a) *The development hereby permitted shall only be carried out in strict accordance with the recommendations contained within the Construction Noise Impact Assessment by Nova Acoustics, dated 30.11.2020;*
- b) *Prior to the commencement of development (including demolition) the following mitigation measures shall be implemented and retained for the entire duration of the construction of the development, with the exception of the 2.2m acoustic fence which shall be retained for the lifetime of the development:*
 - i. *A 2.2m acoustic fence (of a minimum density of 10kg/m²) located in accordance with appendix D of the Construction Noise Impact Assessment by Nova Acoustics, dated 30.11.2020;*
 - ii. *A plant and machinery exclusion zone shall be set up as outlined in appendix D of the Construction Noise Impact Assessment by Nova Acoustics, dated 30.11.2020.*
- c) *Prior to the commencement of works relating to excavation and piling an 'Echo Barrier', as specified in appendix F and located in accordance with appendix D of the Construction Noise Impact Assessment by Nova Acoustics, dated 30.11.2020 shall be installed and retained for the entire duration of such works.*

Reason: To suitably protect neighbouring amenity during construction.