

Registration Date: 26-Apr-2011  
Officer: Ian Hann

Applic. No: P/09785/008  
Ward: Colnbrook-and-Poyle  
Applic type: Major  
13 week  
date: 26th July 2011

Applicant: Mr. Glen J. McArdle Contracts Ltd

Agent:

Location: McArdle House, McArdle Way, Colnbrook, Slough, SL3 0RG

Proposal: APPLICATION FOR VARIATION OF CONDITION NO. 2 TO PLANNING PERMISSION P/09785/001 FOR AMENDMENT TO THE LAYOUT OF THE SITE AND LANDSCAPING

**Recommendation:** Refuse



## **P/09785/008**

### 1.0 **SUMMARY OF RECOMMENDATION**

1.1 Refuse and enforce.

1.2 This application is to be decided at Planning Committee as it is a major development and concerns a condition that was attached to a permission previously granted by Committee.

### **PART A: BACKGROUND**

#### 2.0 **Proposal**

2.1 This is a full planning application for the variation of condition no. 2 to planning permission P/09785/001 for the amendment of the site layout and to agree the landscaping of the site, which was previously required as a pre commencement condition.

2.2 The application is accompanied by plans showing the site layout and planting plan. The application was also accompanied with a letter from the applicant setting out the reasons for the application.

2.3 The plans that have been submitted show no changes to the previously approved buildings upon the site.

2.4 The plans show that the existing previously approved parking and turning areas would be retained but additional hardstanding / unpaved areas would be created for additional storage and four portacabins would be positioned on the western boundary. This would occupy areas of the site that was previously intended for landscaping and to preserve areas of Green Belt. The site is currently being extensively used for storage purposes, over that which has previously been approved, and this application would reduce the area currently being used for storage.

2.5 The planting plan shows that the edges of the site would be maintained with native buffer planting and wildflower grassed areas would edge the areas where storage and parking areas would be situated.

#### 3.0 **Application Site**

3.1 The application site is an irregular shaped site accessed from McArdle Way which links to the Colnbrook By Pass to the north of the site. The site currently contains a large office building and work shop with associated parking and a large open area that is used for the storage of containers, trailers and HGV parking. It is bordered to the north, east and south by the Colne Brook and Tanhouse Farm to the west. Residential properties lay beyond Colne Brook to the north west, west and south of the site.

3.2 The application site is partly located within the Green Belt east of the Colne Brook Conservation Area and adjoins Grade II Listed Buildings at Tanhouse Farm. The site is also located within the Strategic Gap and the Colne Valley Park, as identified in the adopted Local Plan for Slough and Core Strategy.

3.3 The site falls within Flood Zone 3 as identified on the Council's Flood Map.

#### 4.0 **Relevant Site History**

4.1 In 1987 and 1991, two planning applications were submitted to South Bucks District Council seeking the redevelopment of the proposal site for residential development. During consideration of these applications concerns were raised as to the issue of contamination of the site. These applications, although approved in principle by South Bucks District Council were not pursued by the applicants due to land contamination and financial issues.

4.2 An Established Use Certificate has been issued for the central part of the site in 1971 for a light industrial use namely motor engineers. A large number of enforcement notices have also historically been served for various breaches for the storage of plant, vehicles, scrap metal, vehicle parts and tyres, together with use of land for vehicle maintenance and repairs. Such Notices date back to the 70's and 80's. Some notices were quashed on appeal. To date it is considered that there has been some expansion beyond the area as defined in relation to the Established Use Certificate, over a number of years resulting in much of the application site being covered by plant, machinery storage and possible maintenance.

4.3 The more recent planning history is as follows:

P/09785/001 Planning permission was granted on 14/05/1999 for the clearance of the existing site and erection of office building and 4 no. workshops with associated car parking and construction of new vehicular access from Colnbrook By Pass.

P/09785/002 Planning permission was granted on 22/08/00 for the variation of Condition 4 of P/9785/001 to omit the re-location of the lay by the Colnbrook By Pass.

P/09785/005 A planning application for the erection of a two-storey office building (amendment to planning permission ref. P/09785/001) was withdrawn on 16/05/2005.

P/09785/007 Planning permission was granted on 25/10/05 for the same scheme as approved in 1999 but with a variation in the placement of the building.

## 5.0 **Neighbour Notification**

5.1 Tan House Farm, Tan House Farmhouse, Mill Street, Colnbrook

1-6 Ryefield Terrace, Mill Street, Colnbrook

1-2 New Cottages, Mill Street, Colnbrook

Marita, Mill House, Strathmore Cottage, Mill Street, Colnbrook

7-15 St. Thomas Walk, Colnbrook

Hampton House, Park Street, Colnbrook

Flat 1- 5, Freestone House, Park Street, Colnbrook

Badminton, Park Street, Colnbrook

Post Office, 5, Park Street, Colnbrook

Flat 1, The Haven, Park Street, Colnbrook

11-53 Albany Park, Colnbrook

Two letters of objection have been received from nearby residents raising the following issues :

- The drivers using the site cause disruption by noise, vibration and speeding as the site is used over and above what is previously been permitted.  
Response: This application is looking at the expansion of the site and landscaping proposals rather than the use of the site, which these matters would be associated with and the increase in lorry movements may not increase with the increase in storage areas although this will need to be assessed by the Councils Transport department.
- The public footpath by the side of McArdle Way is unsafe due to the amount of traffic using it and poor visibility.  
Response: The footpath and the access road do not form part of this application and can not be considered and it is not considered that the increase in storage areas will lead to an increase in lorry movements although this will need to be assessed by the Councils Transport department.
- The proposals are in fact a massive expansion of the site.  
Response: This is a material planning consideration and is considered in the report below.
- The company operating the site have not mentioned the fact that they have been corresponding with residents over certain issues at the site,

where such correspondence has taken place.

Response: Other peoples dealings with the Applicant's are not material planning considerations and do not have to be disclosed as part of the planning application process and may not be related to land use planning matters.

- It is clear that the original application was not for the type of operation now seen on the site.

Response: This application is looking at the expansion of the site and landscaping proposals rather than the use of the site.

- The growth of the firm should not entitle it to go into Green Belt land.

Response: This is a material planning consideration and is considered in the report below.

- The company operating from the site is expecting to be awarded contracts for the SIFE site opposite should it go ahead.

Response: This is not a material planning consideration as it is a commercial matter and in any event the SIFE application has to date not been decided.

- They have stated that the further incursion into the Green Belt is because they do not want to pay for the additional cost of storage elsewhere, even though they have healthy profit margins in their accounts.

Response: the accounts of the company is not a material planning consideration.

- The lorry movements from the site brings the Colnbrook By-pass to a standstill.

Response: This application is looking at the expansion of the site and landscaping proposals rather than the use of the site.

## 5.2 Colnbrook with Poyle Parish Council

The Parish Council is concerned that there is no erosion of the Green Belt as a result of these works and that the boundary landscaping be maintained. It also has concerns about the use of Mill Street by vehicles servicing and using the site. The gated access is often left unlocked and it should be made clear that this is an emergency access only.

## 6.0 Consultation

### 6.1 Environment Agency

Consulted although no comments received to date. If comments are received these will be reported on in the Amendment Sheet.

### 6.2 BAA Safeguarding

The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. Therefore, there are no objection to this proposal.

### 6.3 Transport

Consulted although no comments received to date. If comments are received these will be reported on in the Amendment Sheet.

### 6.4 Conservation Officer

1. The landscaped area between Mill Lane and the offices and access way *should* provide a substantial and well treed barrier alongside the Coln Brook.

2. However the overspill parking between the office building and the river is not really satisfactory and should be removed. From the air this area is degraded and should be landscaped by grass and replacement trees for the ones removed and there should merely be an access path provided round the outside of the offices. In winter clearly the site is more open and car parking to the west of the car park should be omitted. A low barrier should be installed to clearly demarcate the soft landscaped area from the approved car parking area otherwise it will be abused again and used as a car parking area to the visual detriment of the conservation area.

3. The Google maps aerial view also shows the area to the north-east seriously degraded. The trees shown on the approved plan AND the submitted one are long gone. Accordingly this area needs strengthening with grass and new plantings of trees.

4. There appears to be an adequate hedge and tree belt to the south-west, south and east of the site.

5. The interior of the site however, although demarcated a little by varied hard surfaces looks pretty poor, although I note the reduction of the portacabins to single storey which will result in something of an improvement.

## **PART B: PLANNING APPRAISAL**

### 7.0 Relevant History

7.1 This site was brought to the attention of the Planning Enforcement team in 2010 and it was subsequently discovered that there had been breaches of planning control at the site including changed layout, the stationing of portacabins, failure to pay the £20,000.00 contribution towards the repair and maintenance of Mill Street, and the failure to formally agree a landscaping plan.

7.2 Following the investigations by the Planning Enforcement team the then acting Head of Town Planning wrote to the applicant's advising them that as a way of moving forward the applicant's should submit a variation of condition planning

application to deal with the new layout of the site together with details of proposed landscaping, removal of 2 of the portacabins and pay the £20,000.00 contribution.

- 7.3 The contribution has now been paid and this application looks to deal with the other matters as stipulated in the above mentioned letter.
- 7.4 The above mentioned letter has been sent on behalf of the then acting Head of Town Planning and carries some weight with regards to its contents in that it is intended to show that *“negotiations moved forward in a practical and efficient way and without recourse to complicated legal action to deal with the unresolved planning issues that affect the site.”* However such a letter is sent *“without prejudice to any decision the Council may make on (the) application”* although appropriate weight will need to be given to this letter when Members decide the application.
- 7.5 The letter further states that if 2 of the 4 portacabins that have been stationed on the site are removed, even though they may be immune from enforcement action, this could be considered a trade off for the rearrangement of the layout of the site which will reduce the landscaped area within the Green belt. Such proposals will still need to be fully accessed and considered against both local and national policy, and such a study has been undertaken and detailed in the report below.
- 7.6 A number of legal judgements have declared that when pre commencement conditions, as per the landscaping condition attached to the original permission, are not discharged prior to the commencement of works on the site, this can be a reason to invalidate the permission, if the condition goes to the heart of the application. In this case the landscaping condition would have been important as it would have sort to enhance the Green Belt that has been reduced due to the creation of this site and would have therefore gone to the heart of the permission. When looking at the history of the application it can be seen that attempts were made to discharge this condition and several amended plans were submitted to overcome officers concerns. However this negotiation and paper trail comes to an end when an amended plan was produced to the Council, consultations were undertaken but no formal response seems to have been made. So while it could be considered that the current buildings and activities on the site do not benefit from planning permission on the basis that the pre commencement condition covering landscaping details remains outstanding, legal advice given to Officers would suggest that that given the time that has lapsed since the original permission this application can be treated as valid. However it is wholly appropriate given the further expansion into the Green Belt which forms the basis of the current application requires up-to-date landscaping proposals which have also been included in this current application.
- 7.7 Circular 02/2009 allows the Secretary of State to give directions requiring applications for planning permission to be referred to them to determine whether or not the application should be “called in”. One of the types of applications that the Secretary of State could consider is inappropriate

development on land allocated as Green Belt in an adopted Local Plan if the development which, by reason of its scale or nature or location would have a significant impact upon the openness of the Green Belt.

7.8 It is considered that this application would not need to be referred to the Secretary of State as the acceptability for the use has been established in previous applications and such a referral would not be warranted for the size of the increase of the site within the Green Belt.

## 8.0 **Policy Background**

### 8.1 Policy Background

#### 8.2 National guidance

- Planning Policy Statement 1 (Creating Sustainable Communities)
- Planning Policy Guidance 2 (Green Belts)
- Planning Policy Statement 4 (Economic Growth)
- Planning Policy Statement 5 (Planning for the Historic Environment)
- Planning Policy Guidance 13 (Transport)
- Planning Policy Statement 25 (Development and Flood Risk)

#### Local Development Framework, Core Strategy,

##### Core Policy 2 (Green Belt and Open Spaces)

- Core Policy 7 (Transport)
- Core Policy 8 (Sustainability & the Environment)
- Core Policy 9 (Natural Built and Historic Environment)

#### Adopted Local Plan for Slough

- EN1 (Standard of Design)
- T2 (Parking Restraint)
- CG1 (Colne Valley Park)
- CG9 (strategic Gap)

8.3 The planning considerations for this proposal are:

- The design and appearance/ impact on the street scene and appearance of the local area and the Green Belt, Strategic Gap and Colne Valley park
- The impact on the living conditions of the adjoining residential properties
- Traffic/ highway/ parking and servicing implications
- Impact on the Conservation Area and Listed Building
- Increased impact on the Brook Ecological Corridor.
- Quality of landscaping

## 9.0 **Assessment**

### **The design and appearance/ impact on the street scene and appearance of the local area and the Green Belt, Strategic Gap and Colne Valley park**

9.1 Design and external appearance is assessed against PPS1, Core Policy 8 and Local Plan Policy EN1, while Green Belt policy is assessed against PPG2 and



Core Policy 2.

- 9.2 Planning Policy Statement 1 (Delivering Sustainable Development) advises that 'Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted'.
- 9.3 Core Policy 8 of the Local Development Framework, Core Strategy, states that: "All development in the Borough shall be sustainable, of a high quality design, improve the quality of the environment and address the impact of climate change."
- 9.4 Policy EN1 of the Adopted Local Plan states that "all development proposals are required to reflect a high standard of design and must be compatible with and/or improve their surrounding", in accordance with the criteria set out in that policy.
- 9.5 Planning Policy Guidance 2 (Green Belts) states that "Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development"
- 9.6 Core Policy 2 Green Belt and open spaces development will only be permitted in the Strategic Gap between Slough and Greater London and the open areas of the Colne Valley Park if it is essential to be in that location.
- 9.7 Planning Policy Statement 4 "Economic Growth" states that a consideration when assessing applications for economic development is "*whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions*"
- 9.8 Planning Policy Statement 5 "Planning for the Historic Environment" states that "Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use."
- 9.9 Core Policy 9 Natural, Built and Historic Environment confirms that development will not be permitted unless it enhances and protects the historic environment.

- 9.10 The proposals in effect seeks to enlarge the area of the site where the activities of the company are being operated from. The previously approved permission allowed for the office building and workshop to be built within the Green Belt with additional limited areas of hardstanding to provide parking turning areas and an access road. The other areas of the site were to be landscaped so as to keep some degree of openness within the Green Belt and so not to have such a detrimental impact upon the Green Belt. Because of the previous permission that has been granted on the site and as previously being considered acceptable the use of the site is considered to be acceptable, but it is the scale of the operations and the further incursion into the Green Belt that needs further consideration.
- 9.11 No changes are proposed in terms of the current buildings, use or access arrangements from Colnbrook Bypass and within the site above that which has been considered to be acceptable in previous permissions, and no objections are raised on these points.
- 9.12 In terms of Green Belt, Colne Valley Park and Strategic Gap Policy the size of the site and the amount of hardstanding was restricted so that it would have limited impact upon the Green Belt, Colne Valley Park and the Strategic Gap. The current situation, when a site visit was recently undertaken by Officers was that a vast majority of the site is being used for open area storage purposes, parking and additional portacabins had been stationed on the site. This situation would further detract from the openness of the area and has a detrimental impact upon the openness and effectiveness of the Green Belt and Strategic Gap as well as urbanising and existing area of countryside. These proposals will reduce the amount of open air storage and will see some of the portacabins currently stationed on the site removed. However this will still result in a further encroachment into the Green Belt over and above what was previously permitted. It is clear from the Officers Report for the original scheme care and consideration was given to the level of parking and turning areas that would be provided at the site, with negotiations reducing the number of car parking spaces that were incorporated into the and suggestions that gravel should be used in turning areas to help reflect the rural location of the site. The current proposals would however introduce additional areas of hardstanding and storage within the areas retained for landscaping, which was previously considered to be important to the scheme, producing further urbanisation within the area and eroding important open areas of Green Belt to the detriment of not just the Green Belt but also the import Strategic Gap to ensure that Slough maintains a satisfactory gap to the west of London. It is therefore considered that the application would have a detrimental impact upon the openness of the Green Belt, the Strategic Gap and increase urbanisation within an area of existing countryside, to the detriment of Colne Valley Park, and should therefore be refused for its inappropriate and harmful impact.
- 9.13 PPG 2 does allow development within the Green belt in “exceptional circumstances”. The Applicants have stated that the cost of sites for storage in other areas is high, quoting prices in the region of £60,000.00 a year and given no other justification for the further encroachment into the Green Belt. This would not meet the exceptional circumstances test as the cost of alternative

sites is not a justifiable reason to allow further encroachment into the Green Belt. If the activities on the site have outgrown the site than appropriate alternative sites need to be found rather than simply allowing further inappropriate development within the Green Belt.

- 9.14 Furthermore Planning Policy Statement 4 clearly states that development to assist economic growth, as the applicant's state this would do, should only be permitted if the proposal helps improve the character of the area and the way that it functions. This application fails to improve the character of the area, as therefore fails to comply with this policy.
- 9.15 As the proposed landscaping scheme reduces the amount of area which is available for landscaping, due to the increase in the area used for the commercial activities on the site. The scheme is therefore unacceptable by its very nature and would fail to enhance the Green Belt or the Colne Valley Park.
- 9.16 The Nature of the landscaping would be acceptable save for the additional planting of some additional trees to replace those already lost and to further upgrading of some areas, although this can be requested via condition if planning permission is to be granted.
- 9.17 These proposals would not have any impact upon the neighbouring Conservation Area or the Listed Buildings at Tan House Farm as the removal of the first floor of portacabins would ensure that the site would not impact upon the area in terms of visual effect and therefore protects this important area.
- 9.18 These proposals would not have any impact upon the ecology corridor that runs either side of the brook that borders the site has a 8m gap of landscaping would be provided and therefore provide an appropriate ecology area.
- 9.19 Objection is therefore raised to this scheme in terms of the detrimental harm and impact caused to the Green Belt, Colne Valley Park and Strategic Gap and against the guidance given in PPS1, PPG2, PPS4, Core Policies 2 and 8 of the Local Development Framework Core Strategy and Policies EN1, CG1 and CG9 of the Adopted Local Plan.
- 10.0 **Impact on Adjoining Residential Properties**
- 10.1 The impact on adjacent residential properties is assessed against Core Policy 8 and Local Plan Policy EN1.
- 10.2 Core Policy 8 of the Local Development Framework, Core Strategy, states that "The design of all development within existing residential areas should respect the amenities of adjoining occupiers."
- 10.3 Policy EN1 of the Adopted Local Plan states that "all development proposals are required to reflect a high standard of design and must be compatible with and/or improve their surrounding", in accordance with the criteria set out in that policy.

10.4 As noted above, the principal change arising from this latest proposal is that the site will be increased in size from that which has previously approved, which would still be on an area which is less than the current site is operating on. Therefore impacts from the site that would be felt by neighbouring residential properties in terms of disturbance from noise would be limited as the areas would be used for storage rather than other noise intensive uses. The removal of the upper tier of portacabins would also reduce the impact that the proposals would have on local residents. It is therefore considered that these proposals would not have an adverse impact upon the amenity of residential properties.

10.5 No objection is therefore raised in terms of the impacts on adjoining residential properties. The proposal is considered to be consistent with Core Policy 8 of the Local Development Framework Core Strategy and Policy EN1 of the Adopted Local Plan.

#### 11.0 **Traffic and Highways**

11.1 The relevant policies in terms of assessing traffic and highway impacts are Core Policies 7 and 10, Local Plan Policy T2 and the adopted parking standards.

11.2 Core Policy 7 requires that development proposals will have to make appropriate provisions for reducing the need to travel, widening travel choices and making travel by sustainable means of transport more attractive than the private car, improving road safety, improving air quality and reducing the impact of travel upon the environment.

11.3 Core Policy 10 states that development will only be allowed where there is sufficient existing, planned or committed infrastructure. Where existing infrastructure is insufficient to serve the needs of new development, the developer will be required to supply all reasonable and necessary on-site and off-site infrastructure improvements. These improvements must be completed prior to the occupation of a new development and should serve both individual and communal needs. Infrastructure includes transportation.

11.4 It is not considered that any additional fundamental traffic and highway issues would result from these proposals as the site currently has a commercial use and the extended area would be used for storage which would not result in a detrimentally larger number of trips. However, any additional comments received from the highway and transport engineers will be reported on the Amendment Sheet.

11.5 No objections are raised, from the information that has been received to date, on highway grounds considering that the CLC is an existing use.

#### 12.0 **Summary**

12.1 This application seeks to vary the layout of the existing site and also agree a

landscaping proposal that should have been agreed under a condition to a previous application. This would result in an increase of the area used by the commercial activities on the site which would have a impact upon the openness of the Green Belt and the Strategic Gap as well as well as resulting in additional urbanisation of existing areas of the countryside and would have a detrimental impact upon the Green Belt, Strategic Gap and Colne Valley Park. It is therefore considered that the proposal is contrary to PPG2, Core Policy 2 of the Council's Local Development Framework, Core Strategy 2006 – 2026 Development Plan Document, December 2008 and Policies EN1, CG1 and CG9 of the Adopted Local Plan for Slough, March 2004. The proposal is therefore recommended for refusal.

13.0 **PART C: RECOMMENDATION**

13.1 Having considered the policy background and comments from consultees it is considered that this application should be refused and enforcement action taken.

14.0 **PART D: LIST OF REFUSAL REASON(S)**

Reason(s)

1. These proposals would result in an increase of the area used by the commercial activities on the site which would have a impact upon the openness of the Green Belt and the Strategic Gap as well as well as resulting in additional urbanisation of existing areas of the countryside and would have a detrimental impact upon the Green Belt, Strategic Gap and Colne Valley Park. It is therefore considered that the proposal is contrary to PPG2, PPS4, Core Policy 2 of The Slough Local Development Framework, Core Strategy 2006 - 2026, Development Plan Document, December 2008 and Policies EN1, CG1 and CG9 of The Adopted Local Plan for Slough, 2004.