

Appeal Decision Notice

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Decision by Gerry Farrington, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/270/510
- Site address: Site No. 2, Neil Gunn Drive, Ormlie Industrial Estate, Thurso KW14 7QU
- Appeal by E Petrie Painters against the failure of Highland Council to issue a decision within the prescribed period
- Application for planning permission (council ref: 07/00372/FULCA) dated 9 July 2007
- The development proposed: alterations to (previously approved) workshops/stores
- Application drawings: as listed in the schedule on pages 2 and 3
- Date of site visit by Reporter: 12 February 2008

Date of appeal decision: 28 March

Decision

I allow the appeal and grant planning permission subject to the six conditions on pages 3 and 4.

Reasoning

1. The key issues in this appeal are whether: (1) the appeal proposal accords with the development plan; and (2) whether approval or refusal is justified by other material considerations, notably the impact of the proposed development on the amenity of the occupants of the nearest dwellings, which are in Henderson Court.
2. **Issue 1 the development plan:** I note that the land including the appeal site has been zoned for industrial use since the 1980s and that the adjacent land including Henderson Court has been zoned for housing from the same time. Therefore, the proposed development accords with the development plan.
3. **Issue 2 other material considerations:** I can appreciate the concerns of local residents at the prospect of a building containing six industrial units facing them across Neil Gunn Drive. However, I attach particular significance to the following facts and findings.
 - The council or its predecessor laid out the site and surrounding area for industrial development and approved the adjacent housing including the degree of separation of the dwellings from the site.
 - Planning permission already exists on the site for an industrial building occupying the same footprint as currently proposed and with its façade facing Henderson Court.



- Whilst the eaves height as amended would be 1.6m higher than the eaves of the building for which permission has already been granted, the roof ridge would be 0.8m lower.
 - Due to the higher eaves the façade facing the housing would have a greater visual impact than that of the permitted building. However, my site visit revealed that ground levels in Henderson Court are significantly above those of the appeal site and that the eaves level of the proposed building would be approximately at the same level as the single storey eaves of the nearest dwelling, no. 14. The building would be separated from the nearest dwellings by its forecourt, Neil Gunn Drive, an embankment and the rear gardens of the houses. Given its location lower down the slope and this separation I am not persuaded that the amended façade would have an unacceptable impact on the outlook from nearby properties.
 - The proposed introduction of landscaping and planting as outlined in the appellant's agent's letter dated 27 September 2007 and on drawing no. 16376 /AL (0) 10 rev. A would improve the appearance of the development offsetting the greater visual impact of the amended façade.
 - I accept that the substitution of box section metal cladding for roughcast brick and the omission of stained timber bargeboards and window frames, may make the building more industrial in appearance. However, there are metal clad buildings in the vicinity and in my opinion the contemporary design, cladding and finishes proposed are of acceptable quality. Therefore, I do not accept that the changes would have a significant impact on the amenity and character of the area.
 - Given that an industrial building containing six units has already been permitted on the site, the potential for noise, disturbance and increased traffic hazards would not be significantly affected whether the alterations are approved or not. Appropriate measures to attenuate noise emissions can be required by planning conditions.
 - Since the appeal was lodged the planning committee whose deliberations led to deferment of a council decision has concluded that, whilst reservations still persist, conditional planning permission should be granted.
4. Bearing in mind the bulleted facts and findings set out above and that legislation requires that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise I am not persuaded that refusal of permission is justified. I have taken account of all of the other matters raised in the submissions but none carries sufficient weight to override my conclusion that the appeal should be allowed and that conditional planning permission should be granted.

This is the version issued to parties on 28 March 2008.

GERRY FARRINGTON
Reporter

SCHEDULE OF APPLICATION DRAWINGS

- (1) Drawings submitted with the application for planning permission dated 9 July 2007
- 16376 /AL (0) 01 'location plan'

- 16376 /AL (0) 03 'as existing elevations and sections'
- 16376 /AL (0) 04 'as existing floor plan'
- 16376 /AL (0) 06 'location plan– neighbours notified'
- 16376 /AL (0) 08 rev. C 'proposed section A-A through unit 1'

(2) Drawing submitted with the appellant's agent's letter dated 7 September 2007

- 16376 /AL (0) 05 rev. D 'proposed ground floor and 1st floor plan units 1 & 2'
- 16376 /AL (0) 07 rev. C 'proposed elevations units 1 & 2' at 1:100 scale
- 16376 /AL (0) 09 rev. C 'proposed elevations'

(3) Drawing submitted with the appellant's agent's letter dated 27 September 2007

- 16376 /AL (0) 10 rev. A 'landscape details' dated 25.09.07

CONDITIONS

1. Except as approved otherwise in accordance with conditions 2 and 3 the development hereby permitted shall accord with the submitted drawings identified in the schedule of application drawings set out above.

Reason: In order to clarify the terms of this permission and to ensure that the development is implemented as approved

2. Development shall not begin until details of the scheme of landscaping works and planting outlined on drawing no. 16376 /AL (0) 10 rev. A have been submitted to and approved in writing by the planning authority. Details of the scheme shall include a programme for completion and subsequent maintenance. Unless otherwise agreed by the planning authority the scheme shall be carried out within the first planting season following the commencement of the development. Shrubs dying or damaged within 5 years of the commencement of the development shall be replaced with shrubs of similar species.

Reason: in the interests of protecting the visual amenity of the area

3. Precise details of the materials to be used to clad the external walls and roof, including the colours of the finishes, shall be submitted to and approved in writing by the planning authority before any works start on site.

Reason: in the interests of protecting the visual amenity and character of the area

4. In regard to noise:

(1) The developer shall ensure that all plant, machinery or equipment installed or forming part of the development (including any mechanical extraction, ventilation or refrigeration systems) shall be of such a type so designed and installed and thereafter operated and maintained such that noise levels at the nearest noise sensitive properties are not increased. In order to demonstrate this to be the case, prior to the commencement of development the developer shall carry out a background noise survey using a methodology to be approved by the planning authority the results of which shall be submitted to and require the written approval of the planning authority in consultation with the environmental health authority.

(2) Noise, arising from the erection, construction, alteration or repair of buildings, structures or roads in connection with the development the subject of this permission shall be inaudible within any noise sensitive properties between 20.00 hours and 07.00 hours on the following day.

(3) Any public address system or other amplified sound shall be so controlled as to be inaudible within any noise sensitive property.

Reason: in order to avoid disturbance and nuisance in the interests of the protection of residential amenity

5. This permission only relates to the use of non-hazardous substances. The use of any hazardous substances shall require the express approval in writing of the planning authority.

Reason: In order to clarify the terms of this permission and to ensure that the development is implemented as approved

6. The development shall be begun not later than the expiration of 5 years from the date of this decision.

Reason: to comply with section 58 of the Town and Country Planning (Scotland) Act 1997

DPEA as issued to parties