

Addendum to Application 07/2020/00019/VAR

Address	Lincluden, Newgate Lane, Whitestake
Applicant	S&G Plant Hire Ltd
Agent	Acland Bracewell Surveyors Ltd The Barrons Church Road Tarleton PR4 6UP
Development	Variation of conditions imposed on permission 07/2011/0726/FUL

This application was deferred by Members (Feb 2020) to allow Officers to provide revised wordings for recommended conditions so as to restrict storage to the inside of the workshop building only and to define specifically what agricultural vehicles may be stored on land to the south of the building.

When used properly, conditions can enhance development by mitigating adverse effects to allow development where it would otherwise be refused. The power to attach conditions to a planning permission must be clearly seen to be fair, reasonable and practicable, and conditions must be tailored to tackle specific problems, rather than be standardised or used to impose broad unnecessary controls. The Town & Country Planning Act 1990 (Section 70(1)(a) enables the Council to impose “*such conditions as they think fit*”, but Paragraph 55 of the National Planning Policy Framework is clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests. Each test needs to be satisfied for each condition which the Council wishes to apply

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

The original Officer recommendation as detailed in the accompanying report does not change. This recommendation remains that the variation of conditions be approved with the wording brought to Committee in February 2020.

In line with Members wishes an alternative set of conditions is put forward for Members to debate. Members must be mindful however that Officers are of the opinion that conditions 3 and 4 **DO NOT** pass the tests required of the Town & Country Planning Act and could be subject to challenge; particularly test 6 (reasonableness) which could prevent proper and full lawful use of the workshop. Alternative conditions for discussion are as follows – amendments are highlighted in bold for your convenience

1. The development, hereby permitted, shall be carried out in accordance with the following approved plans Dwg 20.001.PL01 Rev A and 20.001.PL02 (Hunter Haus)
REASON: For the avoidance of doubt and to ensure a satisfactory standard of development

2. The area of the site identified by approved plan 20.001.PL01 Rev A (Hunter Haus) for 'Parking' shall remain free for the parking of vehicles (**other than plant and machinery**) for the duration of the approved use.
REASON: To allow for the effective use of the parking areas

3. All plant machinery and parts storage associated with the business shall only occur within the existing workshop building-identified by approved plan 20.001.PL01 Rev A (Hunter Haus). No machinery, plant, raw materials, finished or unfinished products, parts, crates, packing materials or waste shall be stored externally on the site outside of the workshop building.

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance

4. Only **domestic sized** agricultural vehicles and agricultural machinery associated with maintenance of the agricultural land to the west of the building (as shown on the same approved plan) shall be permitted to be stored in the area to the south of the existing workshop building as identified by approved plan 20.001.PL01 Rev A (Hunter Haus). **Tractors and commercial sized agricultural machinery and vehicles shall not be stored externally on site at any time**

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance

5. Prior to first use of the storage area on the northern side, the boundary fence identified on approved plan 20.001.PL01 Rev A shall be erected. The approved acoustic screen/fence shall be retained and maintained at all times thereafter.

REASON: To ensure the provision and retention of adequate screening in the interest of amenity and to accord with Policy 17 in the Central Lancashire Core Strategy

6. No maintenance work, the loading of vehicles or the acceptance of deliveries shall take place outside the following times:

0730 hrs to 1800 hrs Monday to Friday

0800 hrs to 1300 hrs on Saturdays.

No work shall take place on Sundays, Bank or Public Holidays.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise and to accord with Quality of Development Policy QD1 in the South Ribble Local Plan.

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Development	Variation of conditions imposed on permission 07/2011/0726/FUL
Officer Recommendation	Approval with Conditions
Date application valid	16.01.20
Target Determination Date	12.03.20
Extension of Time	03.04.20



Report Summary

1.1. This application seeks to vary conditions imposed on planning permission 07/011/0726/FUL which was for the erection of a single storey building for use as a workshop following the demolition of an existing workshop.

1.2. The application has been made in part to regularise activities currently undertaken on the site which Officers are of the opinion are in breach of conditions imposed on planning permission 07/2011/0726/FUL and to amend current ways of working to try and reduce the impact site operations are having on neighbouring residential properties. In order to secure these changes condition 2 is proposed to be varied in order to restrict external operations in certain areas of the site.

1.3. This variation of condition application provides the Local Planning Authority with the opportunity to impose reworded/additional conditions which would assist the Council by providing more robust conditions to enforce against should there be any future breaches on the site. Officers are of the opinion that condition 12 on the current planning permission, which relates to the external use of machinery and operations, is currently ambiguous and may be considered unenforceable at appeal should a breach of conditions notice be issued. A key benefit of this variation of condition application is the opportunity for the Local Planning Authority to also amend condition 12 to provide a clearer condition with greater confidence in its enforceability.

1.4. Where an application to vary conditions is granted, the effect is the issue of a new planning permission sitting alongside, rather than as an amendment to the original permission which remains intact and un-amended. For this reason, earlier conditions which have not been discharged would also be re-imposed.

1.5. In response to publicity four letters of representation have been received. Comments raised by statutory consultees have been dealt with either by amendments to the scheme or by condition

1.6. In policy terms the proposal is considered compliant, and having regard to the comments of statutory bodies and the above commentary, it is recommended that the application should be **approved subject to the imposition of conditions**

2. Application Site and Surrounding Area

2.1. The application refers to a commercial site located to the western side of Newgate Lane, Whitestake. 'Fern Hollow' – residential formerly known as Lincluden and currently owned and occupied by the applicant – lies immediately north-east; its rear garden abuts the site. Spanning beyond in the north are 'The Conifers', 'Hazelwood' (bungalows) and a third plot with extant permission for one bungalow (07/2015/1786/FUL). 'Hazelwood' and the unbuilt bungalow face the commercial unit across Lincluden's rear garden. Directly facing across Newgate Lane are two storey height, corrugated, agricultural style buildings.

2.2. To the south across an area of open land are two-storey dwellings addressed onto Chain House Lane – 'Russel House' and 'Haslemere', whose rear gardens north-east corner connects with the sites south-western corner. There is a summer house immediately adjacent to this boundary. The Old Post Office (derelict) currently inhabits the corner of Chain House and Newgate Lanes but permission is in place for a two-storey dwelling (07/2017/1671/FUL). The site is bound on the southern side by mature hedgerow and trees. A small paddock sized area of land in the ownership of the applicant and used as a small-holding sits to the west with hedgerow screening beyond. Domestic fencing denotes the boundary with Fern Hollow (north).

2.3. The building is operated by S&G Plant Services Ltd who rent, maintain and repair plant and machinery. Plant hire occurs from a separate site. Plant, in the form of mini-diggers, are delivered to the Newgate Lane site generally once a week in bulk, upgraded to conform with British Standards and then dispatched in bulk to clients.

2.4. The site is designated by Policy G1 (Green Belt) of the South Ribble Local Plan.

3. Site Context / Planning History

3.1. There are ten applications on the history of this site. The most relevant are:

- 07/2010/0791/CLU - Application for a Lawful Development Certificate for the use of building as a workshop/storage in connection with vehicle repair and maintenance. Approved December 2010
- 07/2011/0496/FUL - Erection of single storey building (12.2m x 22.8m) for the use as a workshop following demolition of existing workshop. Refused September 2011
- 07/2011/0726/FUL - Erection of single storey building (12.2m x 22.8m) for the use as a workshop following demolition of existing workshop - Amended scheme of planning refusal 07/2011/0496/FUL. Approved December 2011 and partially discharged 07/2013/0201/DIS
- 07/2014/0017/COU - Division of site to separate domestic dwelling and curtilage from existing workshop and associated hardstanding to create two individual uses (amended description). Approved Feb 2014

3.2. The Council's Enforcement records also show that a Breach of Planning Conditions notice was issued to the applicant in 2013 giving 28 days for compliance. The notice stated that the applicant was in breach of conditions 11 and 12 (hours of operation and external activity). In August 2014 the enforcement case was closed with no further complaints received. Further complaints alleging breach of conditions have then been received in 2015, 2018 and 2019 with the basis generally being operations taking place on site outside of permitted hours and noise disturbance from external activities taking place on the site.

4. Proposal

4.1. The site comprises a detached commercial building located to the rear of the site. The area of hardstanding along the southern boundary of the site is currently used for storage of plant vehicles (namely mini-diggers) and parts. Mini-diggers are then moved from external storage area into the workshop where modifications are undertaken to the machinery. Once modifications are complete the mini-diggers are then moved back to the storage area. A large vehicle manoeuvring/parking area is located immediately adjacent to Newgate Lane which is used for the delivery and dispatching of plant machinery – which the applicant states is generally on a weekly basis.

4.2. Condition 12 of planning permission 07/2011/0726/FUL states:

“No machinery, equipment or work activity shall be carried out or used externally of the workshop building that will create an audible noise at any occupied neighbouring properties to the development.

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance.”

4.3. The proposal seeks permission for changes to the site layout that the applicant believes would allow operations to continue without Condition 12 being breached. The

external storage of plant machinery and parts is proposed to be relocated along the northern boundary of the site (to the area of the site adjacent to the property owned and resided in by the applicant) with the area of hardstanding along the southern boundary close to the residential properties of 'Russel House' and 'Haslemere' being restricted solely to the parking of agricultural machinery associated with the maintenance of the small-holding to the west. A new field gate across is also proposed to allow access to the paddock from this section of the site. The application also proposes installation of a 2m high, close boarded fence along the northern side of this area to screen Fern Hollows rear garden.

4.4. At the time that the original permission was granted in 2011 the Local Planning Authority did not impose conditions requiring that development be implemented in accordance with the submitted approved plans. In such cases where the Local Planning Authority has been required to impose an approved plans condition on a variation of condition application it has been standard practice to vary the condition imposed to secure the details of external materials. The applicant is therefore applying for condition 2 to the varied in order to provide reference to the submitted site layout plan which the permission is proposed to be secured against.

4.5. Condition 2 of planning permission 07/2011/0726/FUL currently states:

"That no work shall be commenced until satisfactory details of the colour and texture of the facing and roofing materials to be used have been submitted to and approved by the Local Planning Authority. (When brick, tile, slate etc samples are due for inspection by the Authority please telephone the relevant planning officer to arrange inspection of the samples on site.)"

REASON: To ensure the satisfactory detailed appearance of the development in accordance with Quality of Development Policy (as described in the policy section) in the South Ribble Local Plan."

It is proposed that condition 2 be amended to state:

"That development hereby permitted shall be carried out in accordance with the submitted amended approved plans reference 'Proposed Site Layout and Boundary Treatment Plan 20.001.PL01."

The detail of the colour and texture of the facing and roofing materials shall remain as agreed under discharge of condition application 07/2013/0201/DIS."

4.6. Where an application to vary conditions is granted, the effect is the issue of a new planning permission sitting alongside, rather than as amendment to the original permission which remains intact and un-amended. For this reason, earlier conditions which have not been discharge would also be re-imposed.

4.7. Note: For the avoidance of doubt it should be noted that whilst maintenance work, the loading of vehicles and acceptance of deliveries may be controlled by condition, unrelated vehicular movements within, to and from the site do not constitute development and as such do not require planning permission. As a licensed HGV operator the applicant is also separately permitted to store and run 3 no: HGV's from the site, although at the time of the last enforcement investigation this was not taking place.

5. Summary of Supporting Documents

5.1. The application is accompanied by the following:

- Location plan (20.001.PL02: Huntar Haus)
- Proposed site layout and boundary treatment (20.001.PL01 Rev A: Huntar Haus Planning Design)

6. Representations

6.1. Summary of Publicity

6.1.1. A site notice has been posted, and 10 neighbouring properties consulted. Some neighbours were omitted from the initial consultation and as a precautionary measure a second batch of letters was sent out. Ward Councillors have also been notified

6.2. Letters of Objection or Support

6.2.1. At the time of writing this report four letters of objection have been received. Comments are summarised as follows. Late responses will be reported verbally at Committee

Highways

- Damage to vehicles from passing HGV lorries in a residential area.
- Access onto Newgate Lane from Chain House Lane is dangerous and cannot accommodate HGV's from the site
- Increased HGV's accessing Newgate Lane
- Unlawful use of the hardstanding for storage

Residential Amenity

- Loss of amenity and visual appearance/outlook if business is allowed to expand
- Noise, smells and air quality problems already a problem. This would increase if allowed to relocate closer to dwellings in the north
- Plant would be '*within a few metres of boundary and back door*'

Other

- Lack of notification – several households were omitted from the initial consultation. This was identified early in the process and a second round of letters posted as a precaution
- Applicant has already breached conditions imposed on earlier permissions. Respondents question lack of enforcement. Conversely separate resident questions costs to Council of continuous monitoring
- Impact on the Green Belt
- '*Workshop isn't the main use*'
- There is no reason why if approved the applicant could not use both sides of the building for storage

Officer comment in response – Objection has been made with regards to damage from, and problems caused by increasing number of HGV lorries in what is described as a residential location. Newgate Lane is home to 27 dwellings and four separate commercial enterprises - the applicant's site, Newgate Nurseries (large garden centre), a farm/commercial building facing Lincluden and a depot to the rear of 'Overdale' which in 1993 was granted permission for '*storage and distribution of fruit and vegetable produce*'. Each of these businesses would use HGV vehicles to transport goods to and from their own sites and there is no evidence to prove that problems arise solely from the applicant's site. Use of the site is not expected to

change other than external re-configuration. Consequently, HGV numbers and any associated problems are also not expected to rise.

7. Summary of Responses

7.1. **Lancashire County Council Highways** has no objections to the proposal

7.2. **Environmental Health** make the following comments. Proposed amendments to Condition 12 and recommended new conditions relating to vehicle storage, boundary fence erection and hours of working as suggested are also felt appropriate.

'The application to regularise activities on this site to amend current ways of working and to reduce the impact of site operations on neighbouring residents is agreeable from an Environmental Health perspective. Upon reviewing previous conditions imposed on site it is agreed that condition 12 is ambiguous and it should be made clearer to ensure that enforcement can be undertaken on the site if the condition is breached. The proposal to change the layout of the site will have a positive impact on neighbouring residents with the storage of external plant machinery and parts being relocated along the northern boundary of the site and the hardstanding along the southern boundary being restricted solely to the parking of agricultural machinery. In addition, the installation of a 2m high close boarded acoustic fence along the northern side of this area to screen Fern Hollow's rear garden will have a positive impact on reducing noise from the site. The following amended/additional conditions are considered to be necessary'.

8. Material Considerations

8.1. Site Allocation Policy /Green Belt Development

9.1.3. Whilst the site is within the Green Belt, the principle of the use of the site as a workshop for plant machinery has previously been established by the granting of planning permission 07/2011/0496/FUL. The one 'built development' material change proposed is the erection of a 2m high timber boarded fence along 23m of the northern boundary. Such boundary treatments are not uncommon in the Green Belt and will not have an adverse impact on the openness of the Green Belt.

8.2. Additional Policy Background

Additional policy of marked relevance to this proposal is as follows:

8.2.1. *Economic Policy*

8.2.1.□.1. The National Planning Policy Framework (2018) at Para 11: provides a presumption in favour of sustainable economic growth and development, with Chapter 6 (Building a strong and competitive economy) committing to economic growth, job creation and prosperity in order to meet the challenges of competition, whilst ensuring that the planning system does everything it can to support sustainable economic growth (Para 80).

8.2.2. *Highways/Transport Policy*

8.2.2.□.1. NPPF (2018) Chapter 9 (Promoting sustainable transport) states that 'developments should be located and designed to accommodate the efficient delivery of goods, and access by service and emergency vehicles' (Para 110). Core Strategy Policy 3 (Travel) also seeks to improve the road network by amongst other things reviewing work place parking, whilst Local Plan Policy F1 (Parking Standards) requires all development proposals to provide car parking and servicing space in accordance with parking standards adopted by the Council.

8.2.3. Design Policy

8.2.3.1. Core Strategy Chapter 7 (Requiring Good Design) and Local Plan Policy G17 (Design of New Buildings) each attach great importance to the design of the built environment, requiring proposals to take account of the character, appearance and amenity of the local area, and to highways and pedestrian safety.

8.3. Character and Appearance and Relationship to Neighbouring Properties

8.3.1. The external storage of plant and machinery on the site is permitted under planning permission 07/2011/0726/FUL with condition 12 only seeking to restrict external activities on the basis of noise disturbance at neighbouring residential properties. The northern area proposed for storage would be 20m further north from the residential properties at Hazelwood and Russel House than the area currently used and would now be set behind the existing workshop building providing a visual screen. The storage of plant and part would remain close to the existing workshop with the proposed reconfiguration having no greater impact on the character and appearance of the area.

8.3.2. A distance of approximately 30m would be present from Hazelwood (bungalow).36m from The Conifers and 21m from Fern Hollow (formerly Lincluden) would be present with existing hedging and screen fencing proposed. These inter-relationships are considered sufficient so as to prevent the proposed changes from having an undue impact on the amenities of neighbouring properties in terms of overshadowing / overdominance and overlooking / loss of privacy.

8.3.3. Additional conditions are recommended to prevent and restrict parking, external works and machinery storage to certain areas. Wording of existing conditions would also be tightened to afford more control, and accordingly the Local Planning Authority having a more robust case for enforcement should the applicant breach in the future. With these conditions in mind, the proposal is considered to result in overall betterment.

8.4 Highway Issues

The proposed reconfiguration of the external storage areas within the site will not materially alter traffic to and from the site. County Highways have fully assessed the proposal and have raised no objections to the proposed variation.

8.5 Noise Issues

The purpose of the application is to try and address noise and disturbance issues currently being experienced by neighbouring properties. Following the granting of planning permission 07/2011/0726/FUL the use of the site for the repair and maintenance of plant machinery is lawful, as is the storage of plant machinery and parts externally. The alleged associated noise disturbance from the delivery and movement of plant machinery has been investigated as a potential breach of condition 12, which essentially restricted the use of any machinery, equipment or work activity externally that creates an audible noise any occupied neighbouring properties. The ambiguous wording of this condition is of concern to Officers as the trigger of what is audible is not scientific and may vary from person to person and, if applied in the strictest sense, may potentially prevent any operation from taking place on the site including employees parking on the site to access the workshop. It is therefore a concern of Officers that should enforcement action be taken on the breach of condition 12 as currently worded, an Inspector at any subsequent enforcement appeal may consider that this condition fails to meet the tests for conditions.

The proposed changes to the site layout, moving the area of externally storage of plant machinery and parts 20m north behind the workshop building would result in an improved relationship with residential properties on Chain House Lane to the south. The plant machinery and parts would then be stored against the boundary with the applicant's own property. Agricultural machinery which is currently stored along the boundary with the applicant's property would be relocated along the southern boundary of the site. It is however not uncommon in semi-rural and rural areas for agricultural machinery used in connection with small holdings and farms from being stored in close proximity to neighbouring properties.

Amendments to Conditions

In addition to the variation of condition 2 (to be renumbered as condition 1 following the removal of the obsolete standard 3 year time limit planning condition) the following amended/additional conditions are considered to be necessary:

i) Condition 2 (formerly condition 3) amended to secure parking in the area only in the area identified on the submitted plan, to state:

"The area of the site identified by approved plan 20.001.PL01 Rev A (Hunter Haus) for 'Parking' shall remain free for the parking of vehicles for the duration of the approved use.

REASON: To allow for the effective use of the parking areas"

ii) Condition 3 (formerly condition 12) amended to remove ambiguity to state:

"All plant machinery and parts storage associated with the business shall only occur in the area to the north of the existing workshop building as identified by approved plan 20.001.PL01 Rev A (Hunter Haus). No machinery, plant, raw materials, finished or unfinished products, parts, crates, packing materials or waste shall be stored externally on the site outside of this permitted area with the exception of that listed in Condition 4.

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance'

iii) A newly imposed condition 4 to permit the storage of agricultural vehicles and machinery associated with the smallholding land to the rear adjacent to the proposed new field gate to state:

"Only agricultural vehicles and agricultural machinery associated with maintenance of the agricultural land to the west of the building (as shown on the same approved plan) shall be permitted to be stored in the area to the south of the existing workshop building as identified by approved plan 20.001.PL01 Rev A (Hunter Haus).

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance"

iv) A newly imposed condition 5 to secure the installation of the 2m timber boarded fence along part of the northern boundary prior to the relocation of the plant machinery storage area to state:

"Prior to first use of the storage area on the northern side, the boundary fence identified on approved plan 20.001.PL01 Rev A shall be erected. The approved acoustic screen/fence shall be retained and maintained at all times thereafter.

REASON: To ensure the provision and retention of adequate screening in the interest of amenity and to accord with Policy 17 in the Central Lancashire Core Strategy”

9. Conclusion

9.1 The proposal is considered to result in a better relationship with neighbouring residential properties and affords the Local Planning Authority the opportunity to impose robust conditions that should further breaches on the site that can be enforced should further breaches on the site occur. For these reasons the application is recommended for approval subject to the imposition of conditions.

RECOMMENDATION:

Approval with Conditions.

RECOMMENDED CONDITIONS:

1.The development hereby permitted shall be carried out in accordance with the following approved plans and suite of documents:

- Location plan (20.001.PL02: Hunter Haus)
- Proposed site layout and boundary treatment (20.001.PL01 Rev A: Hunter Haus Planning Design)

REASON: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with Policy 17 of the Central Lancashire Core Strategy and Local Plan 2012-2026 Policy G17

2.The area of the site identified by approved plan 20.001.PL01 Rev A (Hunter Haus) for ‘Parking’ shall remain free for the parking of vehicles for the duration of the approved use.

REASON: To allow for the effective use of the parking areas

3.All plant machinery and parts storage associated with the business shall only occur in the area to the north of the existing workshop building as identified by approved plan 20.001.PL01 Rev A (Hunter Haus). No machinery, plant, raw materials, finished or unfinished products, parts, crates, packing materials or waste shall be stored externally on the site outside of this permitted area.

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance

4. Only agricultural vehicles and agricultural machinery associated with maintenance of the agricultural land to the west of the building (as shown on the same approved plan) shall be permitted to be stored in the area to the south of the existing workshop building as identified by approved plan 20.001.PL01 Rev A (Hunter Haus).

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents particularly with regard to noise and/or disturbance

5. Prior to first use of the storage area on the northern side, the boundary fence identified on approved plan 20.001.PL01 Rev A shall be erected. The approved acoustic screen/fence shall be retained and maintained at all times thereafter.

REASON: To ensure the provision and retention of adequate screening in the interest of amenity and to accord with Policy 17 in the Central Lancashire Core Strategy

6. No maintenance work, the loading of vehicles or the acceptance of deliveries shall take place outside the following times:

0730 hrs to 1800 hrs Monday to Friday

0800 hrs to 1300 hrs on Saturdays.

No work shall take place on Sundays, Bank or Public Holidays.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise and to accord with Local Plan Policy G17 in the South Ribble Local Plan.

RELEVANT POLICY

National Planning Policy Framework

Central Lancashire Core Strategy

3 Travel

17 Design of New Buildings

South Ribble Local Plan

F1 Parking Standards

G1 Green Belt

G17 Design Criteria for New Development

Note:

Other application Informative

Attention is drawn to the condition(s) attached to this planning permission. In order to discharge these conditions an Application for Approval of Details Reserved by Condition form must be submitted, together with details required by each condition imposed. The fee for such an application is £116. The forms can be found on South Ribble Borough Council's website www.southribble.gov.uk