

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	12 July 2017
TITLE OF REPORT:	164085 - APPLICATION TO VARY CONDITIONS 3 AND 4 OF PLANNING PERMISSION 163117 AT BRIGHTWELLS AUCTION SITE, STONEY STREET INDUSTRIAL ESTATE, MADLEY, HEREFORD, HR2 9NH For: Mr Gorst per Mr M Roberts, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=164085&search=164085
Reason Application submitted to Committee – Re-direction	

Date Received: 21 December 2016 Ward: Stoney Street Grid Ref: 341893,237325

Expiry Date: 20 April 2017

Local Member: Councillor SD Williams

1. Site Description and Proposal

- 1.1 The application site is located on the eastern side of the unclassified road (U73209) known as Stoney Street that runs to the south-west from The Comet Inn on the B4352 (Clehonger Road) towards Kingstone. It is approximately mid-way between the entrance to the Madley Earth Satellite Station and the industrial estate. The site lies adjacent to the existing poultry units.
- 1.2 Planning permission was obtained in 2011 for the change of use of the site to provide an auction venue for agricultural & land based plant, machinery & equipment, including vehicular access, demountable ancillary office and amenity building, landscaping & boundary treatments & associated works. The auctions currently take place on the second Friday of every month. Members may find it useful to have a look at the applicant's website to see the type of machinery and equipment that is sold from the Madley site: <https://www.brightwells.com/plant-machinery-hgv/>
- 1.3 In 2016, the Planning Committee resolved to grant planning permission for the variation on the conditions imposed on the original permission (102843) to increase the number of sales days per month to two, and to allow the sale of commercial vehicles. In December 2016 the permission was subject of a further application (163117) for the variation of conditions to allow the retention of the modular buildings for a two year period.
- 1.4 Parking is accommodated within the site along with a modular buildings and amenity buildings that are sited in a position to the centre of the auction areas and that accommodate the office and administrative staff. As required by the original planning permission, a new access has been formed onto Stoney Street (south west of the site) with security gates. The visibility splays are 2.4m by 215m in each direction.

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

1.5 This planning application is again made under section 73 of the Town and Country Planning Act 1990 (as amended). This relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

1.6 The application should still be considered in accordance with the development plan and material considerations as they stand at the moment. If the Council grants the application with new conditions the outcome will be a new planning permission.

1.7 This application seeks to vary Conditions 3 and 4 of planning permission 163117 (that being the most recent planning permission following the previous applications to vary conditions). This application has been submitted as it has been identified that the Council consider Brightwells to be operating in breach of Conditions 3 and 4. Whilst Brightwells do not agree that they are in breach of the Conditions, in the interests of collaboration they have applied to vary these conditions.

1.8 Condition 3 states:

The hours during which working may take place shall be restricted to 08.30am to 5.30pm Mondays to Fridays with the exception of office based uses. There shall be no such working on Saturdays, Sundays, Bank or Public Holidays

Reasons: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 of the Herefordshire local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

1.9 The variation sought is to allow extended hours of working (with the exception of office based uses) as follows:

- Monday to Friday: 8am to 5.30pm
- Monday to Friday (Sale days): 7.30am to 5.30pm
- Saturdays following Sale days: 8am to 2pm
- Sundays, Bank or Public Holidays: No working.

1.10 It is proposed that the varied Condition 3 would state:

The hours during which working may take place shall be restricted to 08.00am to 5.30pm Mondays to Fridays (7.30am - 5.30pm on sale days) and on the Saturday following a sale between 8.00am and 2.00pm with the exception of office based uses. There shall be no such working on Sundays, Bank or Public Holidays.

Reasons: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 of the Herefordshire local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

1.11 Condition 4 states:

The delivery of plant and machinery, their loading and unloading, shall not take place outside of the hours of 9am and 5pm Monday to Friday nor at any time on Saturdays, Sundays or Bank Holidays.

Reason: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

1.12 The variation seeks to clarify the terms of the condition by inserting the word collection and extending the hours in line with those detailed above.

1.13 It is proposed that the varied condition 4 would state:

The collection and delivery of plant and machinery, their loading and unloading, shall not take place outside of the hours of 8.00am and 5.30pm Monday to Friday (7.30am on Sale days) and 8.00am and 2.00pm on the Saturday following a sale day nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

1.14 The information supporting the application (letter dated 17th Feb 2017) outlines that the variation of the conditions is considered essential to allow Brightwells to operate their business effectively from the site whilst reducing impact on residential amenities and the local highway network.

The letter states:

“By way of background, haulage / delivery companies tend to travel near to their destination during the evening to avoid peak traffic periods. In addition, it is the expectation by customers that standard opening hours of plant yards, quarries and industrial businesses as well as building sites are 8am and earlier. This is a characteristic of this sector beyond my client's control and beyond the control of the planning system.

In the vicinity of the application site, the Industrial Estate and businesses / nursery on Stoney Street all have access at 8am with some unrestricted operations including local farms

In terms of the collection and delivery of goods to the application site, Brightwells cannot control when third party vehicles arrive at the entrance gate, with vehicles often arriving by 8.30am. Some delivery vehicles however arrive before 8.30am with the intent to be loaded and deliver to their destination during the day-time with arrival before peak school time and also the ability to catch ferries overnight in Dover, Portsmouth, Felixstowe, Harwich or Immingham which are circa 4-5 hours away.

If Brightwells are not able to open the entrance gate before 8.30am, vehicles will be left idling in the site entrance or on Stoney Street. It is considered that this would have more of a negative effect on local residents than allowing vehicles to enter the site from 8am which is not materially different to other established operations in the area.

The operators are very strict about vehicles that arrive during the period that the site is closed and make sure that they are parked off road or sent to a lorry park.

On sale days it is essential to stop a queue forming on Stoney Street prior to the site operating. By unloading from 7.30am it eases the pressure on local roads during the school

run and the Peak commuting time. Again, it is considered that such an arrangement is not uncharacteristic of the wider area given the nature of operations which trade at similar hours.

In relation to Saturday working and the collection and delivery of goods, the proposed variation will not increase vehicle movements but will help to disperse such vehicle movements through more of the week, again reducing the impacts on residential amenity.

Collections during the proposed period are generally small collections by domestic customers from the local area who have jobs and can't attend on weekdays. Such an arrangement avoids an early morning weekday queue. On the basis that farm dispersal sales are almost exclusively all on Saturdays, we consider there to be no legitimate reason to withhold such an amendment on a day which is an established trading day and would not unacceptably impact the amenity or highway safety standards of the locality.”

- 1.15 The application has also been supported by a Transport Note that includes the Automated Traffic Count data (speeds, traffic counts) and an assessment of these.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E1	-	Employment Provision
RA6	-	Rural Economy
SD1	-	Sustainable Design and Energy Efficiency

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy

2.2 National Planning Policy Framework

- Introduction
- Achieving Sustainable Development
- Building a Strong, Competitive Economy
- Supporting a Prosperous Rural Economy
- Promoting Sustainable Development

2.3 National Planning Practice Guidance

2.4 Neighbourhood Development Plan

Madley Parish Council applied to designate a Neighbourhood area on 9 March 2015 and was designated on the 14 April 2015. The Neighbourhood Development Plan is at the drafting stage and therefore whilst a material consideration presently has no weight in the determination process.

<https://myaccount.herefordshire.gov.uk/madley>

3. Planning History

- 3.1 102843 – Change of use of site to provide an auction [venue] for agricultural & land based plant, machinery & equipment, including vehicular access, demountable ancillary office and amenity building, landscaping & boundary treatments & associated works – Approved with Conditions - 30 March 2011
- 3.2 131913 – Variation of Condition 15 of permission S102843/F to allow 2 no. sales per month (fortnightly): Approved with Conditions 15th November 2016.
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=131913&search=131913
- 3.3 131916 - Variation of Condition 4 of permission S102843F to allow sales of commercial vehicles. Approved with Conditions on the 15th November 2016.
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=131916&search=131916
- 3.4 142276/F - Proposed demountable office unit – Approved with conditions on the 30 October 2014
<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142276&search=142276>
- 3.5 163117 - Variation of condition 8 (102843/F - as amended by 131913 and 131916) to extend the permission of the modular building by 2 years. Approved with conditions on 15th December 2016.
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163117&search=163117
- 3.6 163119 - Variation of condition 3 (P142276/F) extend the permission of the modular building by 2 years – Approved with Conditions on the 15th December 2016.
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163119&search=163119

4. Consultation Summary

Statutory Consultations

- 4.1 None

Internal Council Consultations

- 4.2 Transportation Manager has made the following comments;

Whilst it is noted the concerns regarding the changes in the vehicle movements time, the proposals look to spread the vehicle movements over a number of days and away from the peak times.

With regard to the site in general, confirmation should be provided that the site currently operates to meet the existing visibility splay condition and traffic management plan. Information should also be provided in regards to the provision of advance directional signage to the site on auction day.

- 4.3 Transportation Manager has made the following comment on the additional information:

As previously stated and with the submitted documentation, the changes in the conditions would look to spread the vehicles over a larger period of time and therefore would not be classed severe.

5. Representations

5.1 Madley Parish Council have made the following comments:

The Parish Council objects to this application as the reasons for attaching the conditions originally still apply: The interests of the amenities of the locality and in the interests of highway safety. Changing the conditions as proposed in this application will adversely affect the amenity of the locality and highway safety. Additional lighting required due to the extended hours would also have a negative impact on the locality. The parish council is aware that these planning conditions have regularly been breached and request that enforcement of these conditions be undertaken.

5.2 Kingstone and Thrupton Parish Council have made the following comments:

The blatant flouting of the original planning conditions and the obvious disregard for the wellbeing of local residents has already had a detrimental impact on those living nearby. The condition of the roads leading to this site has deteriorated significantly and the road network from the A465 through Thrupton and Kingstone to Madley is totally unsuitable, the B4348 is already used by far too many unsuitable HGVs and any further increase would exacerbate an already existing problem. Due to the impact on the local environment and local residents, Kingstone & Thrupton Group Parish Council object to any extension in the opening hours of this site and suggest that Brightwells are made aware that conditions apply to even them and should be adhered to.

5.3 27 letters of objection have been received. The comments can be summarised as follows:

5.4 Amenity

- Extension of hours will not improve the health, well being and quality of life of all residents.
- Exposure to noise and dust from roads will be increased in duration and will encroach substantially into the weekend – contrary to policy SD1
Increase in hours will cause more disruption
- Longer hours will cause more conflict with commuter traffic / school traffic noting single width roads to either end of Stoney Street
- Saturdays are on the only day one can get much needed relief from heavy good vehicles carrying incredibly heavy loads of agricultural machinery. The noise has to be heard to be believed – vibrate the house. Structural cracks directly linked to the trailers travelling to Brightwell's
- Littering witnessed from HGVs etc.
- Quality of life would be degraded for local residents
- Already vehicles up and down all day long, screech to halt in parts that are narrow, accelerate when widens. Cumulative effect is dangerously unhealthy mix of scattered dust, exhaust emissions, thunderous noise and clanging and banging. Exacerbated by tannoy system on sale days.
- Sound of 40 tonnes crashing its way down Stone Street
- vibration to my house caused by their heavy vehicles carrying machinery on trailers is very disturbing.
- Longer hours will mean collection, delivery, loading and unloading earlier in the day.
- Consideration must be had to the cumulative impact from this and other developments and uses.
- Additional movements would create increased noise levels with already far too many large lorries, cars and trailers rattling and banging going past, so close to home, cutting up verges and going at quite fast speeds.
- Brightwell's traffic is typically very heavy, very cumbersome, very noisy, and easily capable of causing unnecessary, inconvenient congestion;

- Air pollution already from chicken farms and crop spraying without diesel exhaust fumes as well.
- Longer Hours will mean extra lighting to enable loading and unloading resulting in light pollution.
- Machines needed for loading unloading – continual beeping and can be heard when trying to enjoy garden.
- The area is not characterised by industrial units and is a residential / agricultural area and the use is not compatible with these. The use is unique and highly disruptive. Noise from vehicles now waking residents at 7.30am.
- Longer hours will increase / contribute to high levels of carbon emissions and excessive level of noise pollution and to the gridlock that ensues as a result of their own traffic. Why is 6 days of pollution better than 5?
- Harmful to tourism – weekends are usual days for sightseeing.
- The reasons that Barton Willmore have given is pure conjecture.
- Noise surveys should be undertaken;
- Stoney Street is not Rotherwas Industrial estate in terms of scale or stature, nor is its anywhere near as industrial as Brightwell's describe
- Southern end of Stoney Street ugly commercial plots at sharp contrast with the surrounding countryside and residential character of the northern end – contrary to policies SD1, LD1 and MT1.
- Remember that they have permission for 2 sale days now.
- This is not 'sustainable development' as required by the NPPF.
- Local residents face a catastrophic imbalance in Stone Street – a second sale day coupled with Saturdays.

5.5 Highway Safety/Impacts

- Increase in the traffic jams that exist on Sundays. Already unbearable congestion.
- Bridge Sollers Lane used by HGVs frequently and they get stuck. Use at the weekend would conflict with the leisure users in the area.
- Substantial increase of traffic on the B4348 where road narrows in places that get stuck, do damage to properties, have to reverse and make manoeuvres.
- Northern end of Stoney Street narrows (a bottle neck) to a single lane with a couple of residential homes very close to this bottleneck. Sometimes results in vehicles braking hard
- Problems with lorries taking wrong turns, turning around block road and parking on the verge/across peoples driveways
- Vehicles are asked to wait on the highway if not open causing disruption / blockages on the public highway.
- Proposal will be contrary to policy MT1
- Contrary to policy RA6 – unacceptable adverse impacts to amenity and would generate traffic movements that cannot be safely accommodated on the local highway network.
- Object to increase in traffic through Clehonger – to increase this use through to the weekend is abhorrent.
- Sat/Sun and Bank holidays are only day the roads are not used as a rat run and are therefore relatively free from traffic (as shown in the traffic survey).
- Already high volumes of traffic and road badly damaged since the auction site opened.
- Additional movements at weekend could be dangerous for children cycling.
- Speeds and types of vehicles mean that vehicles may be unable to stop if child / something in the road.
- Damage to the roads that are in a state of poor repair.
- Width of vehicles / conflicts with the traffic will lead to damage to verges.
- Car Boot sales every Sunday already cause traffic jams and pollution.
- Query how £30K has been spent on the Bridge Sollers Road.
- Breach of condition has been occasional/periodic so weight should not be given to the traffic survey if they are suggesting that this is inclusive of their additional movement.

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- To be certain of data planning department should be sure of how often they have breached their conditions.
- The traffic data shows that the only day of low level traffic is Saturday.
- Traffic survey does not identify what traffic is Brightwell's own;
- Not an independent traffic survey as commissioned by Brightwells
- 26 day survey is too short and cannot show a typical week. It does not show seasonal variations – busy periods for auction likely to be summer months.
- Position of ATC 1 (survey) at a bottle neck outside Stokes cottage can be problematic cease bottle neck can bring traffic to a standstill – lead to unreliable counts of the class of vehicles.
- Large proportion of the traffic using Stone Street are in fact heavy Good vehicles (as traffic counts show)
- Concern about how the classification of vehicles has been shown – not accurate enough to be given weight
- The traffic surveys are not accurate and cant be considered a credible source of evidence
- Request to open Saturdays are possibly the most contentious proposals and traffic surveys show that this is quietest day. Brightwells statement shows collections are busiest days after sales – so admitting Saturdays would be busy.
- Surveys make no allowance for increase in business

5.6 Breach of condition/comments on operation of business

- Proposed changes will not be in the interest of amenities or highway safety.
- Brightwells are deliberately flouting / breaching conditions already.
- When application was made initially Brightwell's Planning Statement presented the hours for working and a traffic management plan. This mirrored operation in Shobdon.
- The reasons for asking are flawed as nothing has changed since they originally stated the hours they needed and how they would work.
- Not unreasonable to expect applicants to comply with their originally approved application. This would promote good neighbourhood relations showing the applicants to be acting in a reasonable and considerate manner
- Previously Committees have emphasised the importance of the conditions of any planning permission being firmly enforced.
- The fact that Brightwells are now saying the changes are 'considered essential to allow Brightwells to operate their business effectively' sounds like an admission that the site itself is wholly unsuitable. If they can't operate efficiently then they should relocated.
- Rather than shirking responsibilities to local residents they should be actively discouraging their customers and deliveries from arriving before their lawful hours of business.
- No evidence that opening the site earlier / later will alleviate traffic problems. No evidence to support the assertions that they make about reducing impacts on amenities.
- On face of it Brightwells seem concerned about reducing the impacts (of their traffic) on residential amenity but if they have genuine concern, they would withdraw their application and stop violating conditions 3 and 4 and put the feelings of local residents first.
- There are no legitimate reasons to alter or revise conditions 3 and 4 in favour of the applicants.
- If they genuinely wanted to avoid traffic then after 10am would be better.
- The conditions originally imposed balanced the needs of the community and business.

5.7 13 Letters of support have been received. The comments can be summarised as follows:

- Brightwell's are only a small proportion of the articulated lorry movements down Stoney Street.
- Some use road as a cut through from Locks garage to Brecon Road

- Brampton end of Stoney Street has been industrial area since World War 2 with current occupiers at Gelpack, J-mart, poultry units and AW Engineering creating large quantities of daily articulated traffic. Plus agricultural traffic.
- Only Brightwell's that have contributed to road improvements and safety.
- Changing hours to 8am manages the traffic but does not increase it.
- Spread of frequency of traffic will benefit all road users. Changing hours of work won't increase traffic as no extra items will be sold. Restricting access could mean traffic being backed up outside of the site.
- Makes sense to get traffic off road outside of rush hour cut through
- Industrial areas that have sensitive business hours are considered to be good thing.
- Collections on a Saturday will help spread the volume of traffic during the week.
- Never seen any traffic issues
- Very successful local business which employs a considerable number of people and is very well supported by buyers from a wide area.
- Already high volume of HGVs a day going into premises at Gelpack, AW Engineering and J Mart. What impact will the restrictions have on these? How will it control vehicles from Pontrilas Timber, feed mill and stone carriers using Stoney Street? Or stop blocking of street on car boot sale days?
- Increasing the permitted hours will mean the volume of traffic can be spread over a greater period of time causing less interruption to those living and working in the immediate locality and other road users.
- Far safer to load heavy goods on a Saturday when fewer customer on site than on the Friday Sale day. Once purchased goods are responsibility of the owner and as such need to be removed quickly.
- Brightwells attract buyers nationally and internationally who stay in hotels locally and use many other services.

5.8 The consultation responses can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=164085&search=164085

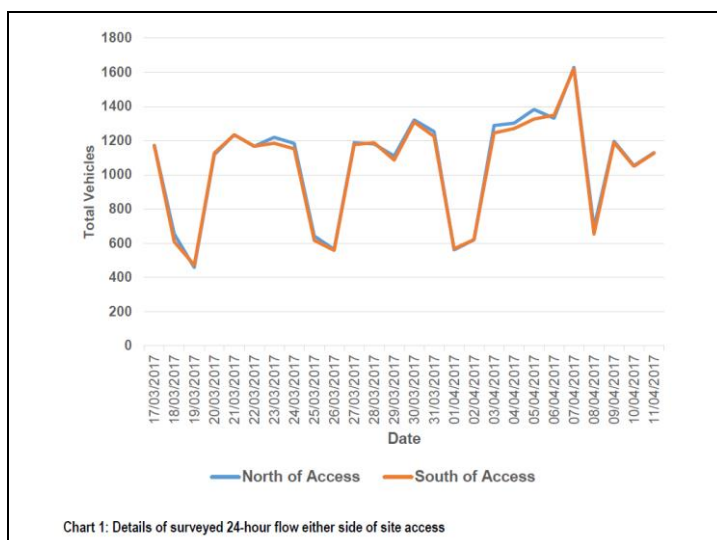
Internet access is available at the Council's Customer Service Centres:-

https://www.herefordshire.gov.uk/directory/22/customer_service_centres/category/41/categoryInfo/14?q=customer&type=suggestedpage

6. Officer's Appraisal

- 6.1 The use of the site is considered to be an employment use that has rural based agricultural activity serving a wide agricultural community in Herefordshire, the surrounding counties, nationally and internationally with agricultural plant and equipment sales. The principle of development and use of the site has been established through the granting of the planning permissions detailed above.
- 6.2 This application seeks to vary conditions 3 and 4 of the planning permissions that control the hours of working on the site and hours of delivery and collection of auction items / lots. These conditions were imposed at the time having regard to the issues of amenity and highway safety and therefore the key considerations in the determination of this application relate to the impact of the extended hours of working and operation upon the amenities of local residents and upon highway safety.

- 6.3 Turning to condition 3, this seeks to control the hours of working on the site, other than the office based activities. So this could mean the moving of equipment and other operations within the site. At present the hours during which working (with the exception of office based uses) may take place are restricted to 8.30am – 5.30pm Monday to Friday. The request is that this is extended so that working could begin at 8.00 am Monday to Friday with no change to the finish time. In addition to this, the applicants have requested that on sale days (maximum 2 days per month) they could start at 7.30am and that on Saturdays following a sale (maximum 2 days per month) they can operate from 8am until 2pm. There would be no working on the other Saturdays in the month, nor would there be working on Sundays, Bank or Public Holidays. It should be noted that at present they are only operating one sale day per month but do have permission to operate two sale days per month.
- 6.4 Condition 4 seeks to control the delivery of plant and machinery and their loading and unloading within the site. At present these are restricted to between 9am and 5pm Monday to Friday. The request is to extend the hours in line with the suggestion for condition 3. In addition to this, they have suggested that to improve the precision of the condition, the wording states 'collection and delivery' rather than just 'delivery'.
- 6.5 Policy SD1 of the Herefordshire Local Plan – Core Strategy seeks to safeguard residential amenity for existing residents, and ensure that development does not contribute to adverse impacts. What Members are being asked to consider via this application are the impacts that would arise from the extended hours of working / deliveries and collections.
- 6.6 Local Residents have commented in detail on the impacts of the development. These relate, in the main, to the impacts from traffic movements along Stoney Street and in particular the noise from the Heavy Goods Vehicles and their loads. Comments describe the noise as excessively loud, with sudden bangs, crashes and rattling with the issue of vibration also being raised.
- 6.7 During the application process, a Traffic Note was submitted to the Local Planning Authority to provide some additional and up to date information about traffic flows (volumes) and speeds on Stoney Street. Automatic Traffic Counts (ATC) have been used and the full reports provided as part of this note. This report advises that the daily flows either side of the site access (weekdays) are of a low level (typically around 1,200). It is noted that the 2010 ATC data recorded before Brightwells started using the site, recorded an average of 1073 two way traffic movements and the 2012 ATC data (July 2012) also found an average of 1073 two way traffic movements. However, these were averages across the entire week (7 days) rather than the weekday average.

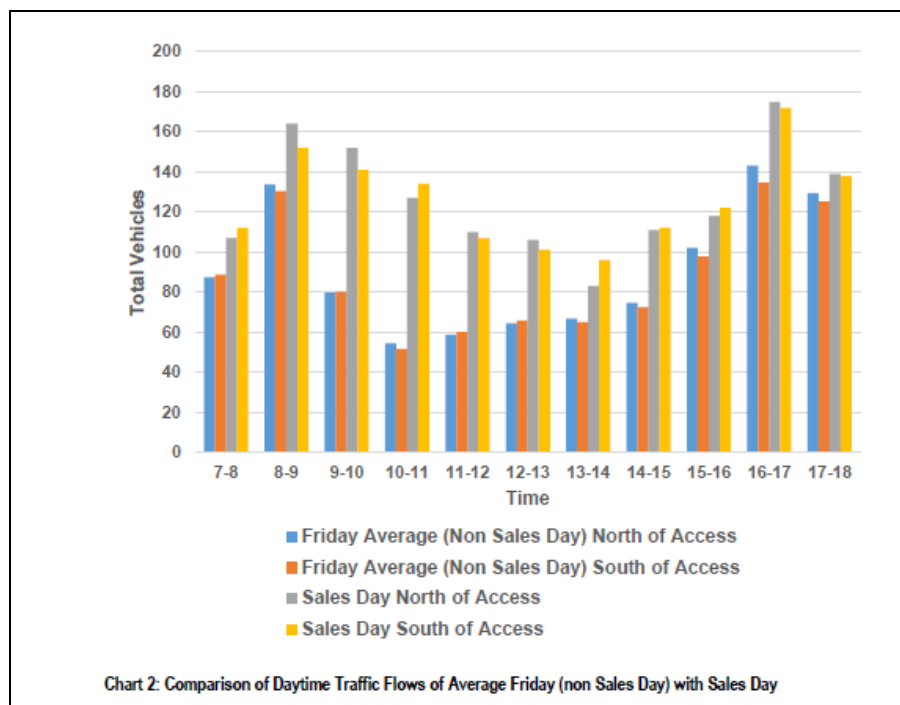


- 6.8 The chart shows that on sales day (i.e. Friday the 7th April) these flows are shown to change only slightly with an uplift of approximately 400 vehicles equating to an additional 40 additional

trips an hour or less than one vehicle a minute for the proposed ten hour sales period (i.e. 07:30 to 05:30). The initial application in 2010 anticipated that the impact of traffic movements as rising to around 1976 movements on an auction day. This report demonstrates that the originally estimated level of traffic movements has not occurred and this is probably attributable to the growing use of the online bidding process, meaning that there are fewer visitors to the site on auction day. This chart also clearly demonstrates that there is a significant reduction in movements over the weekend, an issue raised by local residents.

6.9 Chart 1 also details an increase in vehicle movements after sales day on the Sunday. It is noted that the Brightwells auction site does not open on a Sunday (and has not requested a change to this) and therefore these flows would not relate to the operation of the site. This may therefore relate to the car boot sale that happens on a Sunday to the north of the auction site. The first car boot sale of 2017 on this site was on the 9th April.

6.10 Chart 2 (inserted below) compares the average hourly flows of the non-sales day Fridays (i.e. the 17th, 24th and 31st of March) with the sales day Friday (i.e. the 7th April), it can be seen that the change in traffic flow occurs for the most part in the middle part of the day and therefore outside of the traditional network peaks of 08:00-09:00 and 17:00-18:00. Furthermore, the flows in the hours of the early morning and later evening hours, which are the subject of the extended condition, are also of a low level.



6.11 The proposed variation of condition would not increase the number of traffic movements, but would spread them over a longer period of time. The earliest that this would be is 7.30 am (maximum 2 days per month on the Saturday after the sale). Whilst acknowledging that there may be some additional movements that could be attributed to the site, 7.30 am is not considered to be unreasonable time to start. At all other times, this would be 8am. Activities would cease at 5.30pm. These are normal and reasonable working hours that would be expected in relation to such a use. It should be noted that later operating hours would not necessarily stop vehicles using the public highway, and potentially waiting outside of the site and that the highway is well used by other industrial uses in the vicinity. Deliveries / collection and other visitors can visit anytime within the suggested period, and it is not expected that there will be a significant increase in movements in this ½ - 1 hour period that would have a significant and detrimental impact upon the amenities of the residents living along Stoney Street or routes to the site that would warrant a reason for refusal.

- 6.12 The operation of the site on a Saturday is considered to be more sensitive with local residents advising that this is their 'day off' from the heavy traffic and noise associated with the use. The additional information supplied clearly shows that there is a reduction in traffic movements on a Saturday in comparison to a normal weekday or a Sunday when a car boot is operating. This application seeks agreement to operate a maximum of two Saturdays per month (after a sale) from 8am to 2pm. The applicants have advised that the majority of those collecting on this day are generally small collections by domestic customers from the local area who have jobs and can't attend on weekdays.
- 6.13 As a result of earlier opportunities to deliver or collect from the site, or for working on the site, there is potential for noise and disturbance from the site in relation to moving vehicles / plant. The nearest residential properties lie opposite the site next to the associated poultry units (1 and 2 Sun Valley Bungalows) and the cluster of dwellings approximately 250m to the north east of the site including Stokes Cottage, Street House Farm and 2 Stoney Street Cottages. The key issue here is whether the operations on the site, for this slightly earlier period in the morning, and on a Saturday will adversely affect the amenities of these residents.
- 6.14 The reason that these conditions were imposed initially was led by the applicant's submission in which it was clearly stipulated that their intended hours and way of working would be as follows:
- *The delivery of auction items to the site will take place over the weeks prior to each auction day in the month, with scheduled deliveries from 09.00 to 17.00*
 - *Traffic associated with the auction will be directed and controlled to use specific routes with suitable signposting in the surrounding highway network*
 - *The delivery and auction of items to the site will take place over the weeks prior to each auction day in the month, with scheduled deliveries from 9.00 to 17.00*
 - *Customer access to the site will be restricted to solely each auction day from 9.00 to 16.00*
 - *Removal of auctioned items will take place on the following weekdays from 9.00 to 17.00 over the following weeks*
- 6.15 Since operations began, it is not unusual for changes in operation or customer expectation to change and for businesses to react to such changes in demand or expectation. Whilst it is known that the applicants have been operating outside of their permitted hours, we do not have details that confirm the extent / frequency of these breaches or whether these occurred during the period that the surveys were undertaken.
- 6.16 At the time, the impact of the development was considered on this basis and when considering the imposition of a condition, it would be normal to restrict the hours during which an industrial use may be carried on if the use of the premises / site outside these hours would affect the amenities of the neighbourhood. However it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run the business properly. In this instance, having now had regard to the comments received from local residents, supporters and the applicants, restricting operation on a Saturday morning / early afternoon (8am until 2pm) would not be considered reasonable or necessary as officers do not feel that it would affect the amenities of the neighbourhood and is therefore not considered necessary to make the development acceptable.
- 6.17 As such, it would be unreasonable to refuse permission to vary this condition. Having regard to the above, the proposal to vary the conditions is considered to be acceptable when having regard to the requirements of policy SD1 of the Herefordshire Local Plan Core Strategy and guidance contained within the National Planning Policy Framework.

- 6.18 Acknowledging the concerns about the breach of the conditions in the past, the matter has been raised by the Enforcement Team with the applicant. This application is as a result of this correspondence. Following determination of this application, the compliance with conditions can be further monitored by the Enforcement Team in the normal way and action taken as appropriate if further breaches are identified.
- 6.19 Local residents and the Parish Council also raise concerns about the impact of longer working hours on the local highway network. The proposed development would not increase traffic movements but would help to spread these over the period and allow avoidance of peak hours of travel. As such the Transportation Manager has advised that he has no objection to the proposals. Conditions previously imposed, would remain on any new planning permission. The proposed variation of conditions would continue to ensure that the development would comply with the requirements of policy MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.
- 6.20 Policy SS1 of the Herefordshire Local Plan requires that, when considering proposals that Herefordshire Council take a positive approach that reflects the presumption in favour of sustainable development as contained within National Policy, approving proposals that improve the social, economic and environmental conditions in Herefordshire. Planning applications that accord with the policies of the Core Strategy should be approved, unless material considerations indicate otherwise.
- 6.21 Policy SD1 relates to environmental quality of the developments, and seeks to safeguard residential amenity. The potential for the increase in hours of operation has been the cause of significant amount of objection. However, it is officer`s opinion that extended hours and resultant impacts would not be so significant as to warrant a reason for refusal on these grounds and that the proposed development would, with the imposition of the conditions suggested below, be compliant with policy SD1 of the Herefordshire Local Plan – Core Strategy.
- 6.22 Policy MT1 of the Core Strategy seeks to ensure that the traffic impacts of the development can be absorbed into the strategic and local network without adversely affecting the safe and efficient flow of the traffic on the network. The Transportation Manager has confirmed that he has no objection to this proposal to extend the hours of working / operation subject to conditions (as previously imposed) and as such the proposal complies with the requirements of policy MT1 of the Core Strategy.
- 6.23 Having regard to the above, the applications are considered to comply with the policies of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework and the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The development shall be carried out strictly in accordance with the approved plans (drawing nos. 0472/SK02 Rev A, PL-04 and PL-02 and PL- 06), except where otherwise stipulated by conditions attached to this permission.**

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 2. The premises shall be used for the auction (including administration of) of agricultural and land based plant and machinery and equipment and commercial**

vehicles and for no other purpose.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 and MT1 of the Herefordshire Local Plan – Core Strategy.

3. The hours during which working may take place shall be restricted to 08.00am to 5.30pm Mondays to Fridays (7.30am - 5.30pm on sale days) and on the Saturday following a sale between 8.00am and 2.00pm with the exception of office based uses. There shall be no such working on Sundays, Bank or Public Holidays

Reasons: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 of the Herefordshire local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

4. The collection and delivery of plant and machinery, their loading and unloading, shall not take place outside of the hours of 8.00am and 5.30pm Monday to Friday (7.30am on Sale days) and 8.00am and 2.00pm on the Saturday following a sale day nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of the locality and in the interests of highway safety in accordance with Policy SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

5. The soft landscaping scheme, as detailed on drawing number L1 Rev C shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted .

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. The access shall be constructed and visibility splays (2.4m x 215m) provided and maintained in accordance with the details shown on drawing numbers WSP Drawing 0472/SK1 and 0472/SK02 Rev B.

Reason: In the interests of highway safety having regard to Policy MT1 of the the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

7. Prior to the first use of the site for the access to the north onto Stoney Street shall be closed and land reinstated in accordance with the details shown on drawing numbers WSP Drawing 0472/SK1 and 0472/SK02 Rev B unless an alternative scheme is submitted to and approved in writing by the local planning authority. The access shall be used for emergency vehicles only and for no other purpose.

Reason: To ensure the safe and free flow of traffic using the adjoining County

highway and to conform with the requirements of Policy MT1 of Policy MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the second monthly auction Day a detailed updated traffic management plan shall be submitted to the local planning authority for approval. This shall include, but not be limited to the information contained within the ‘Technical Note’ written by Transport Planning Associates dated April 2014. The approved plan shall be fully implemented prior to the first month of two auction days being held at the site and shall be retained in perpetuity unless otherwise agreed in writing by the local planning authority.

A detailed record of the measures undertaken shall be retained as a written record and made available for inspection upon reasonable request.

Reason: In the interests of protecting local amenities and having regard to highway safety in accordance with policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

9. Auctions shall only take place on two days per calendar month (excluding Saturdays, Sundays and Bank Holidays). Auctions shall not take place outside of the hours of 10am and 4pm on these days.

Reason: In the interests of protecting local amenities and having regard to highway safety in accordance with policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

10. No external lighting shall be installed upon the site (including upon the external elevations of the building) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.

Reason: In the interests of protecting local amenities and landscape character having regard to in accordance with policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

11. The modular buildings hereby permitted shall be removed on or before the 15th December 2018 and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the local planning authority.

Reason: The local planning authority, because of the temporary nature of the building is only prepared to allow this building as a temporary measure, having regard to the rural character of the area and Policies SD1 and LD1 of the Herefordshire Local Plan - Core Strategy and LA2 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1 **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

- 2 **No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.**

- 3 **It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**

- 4 **This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**

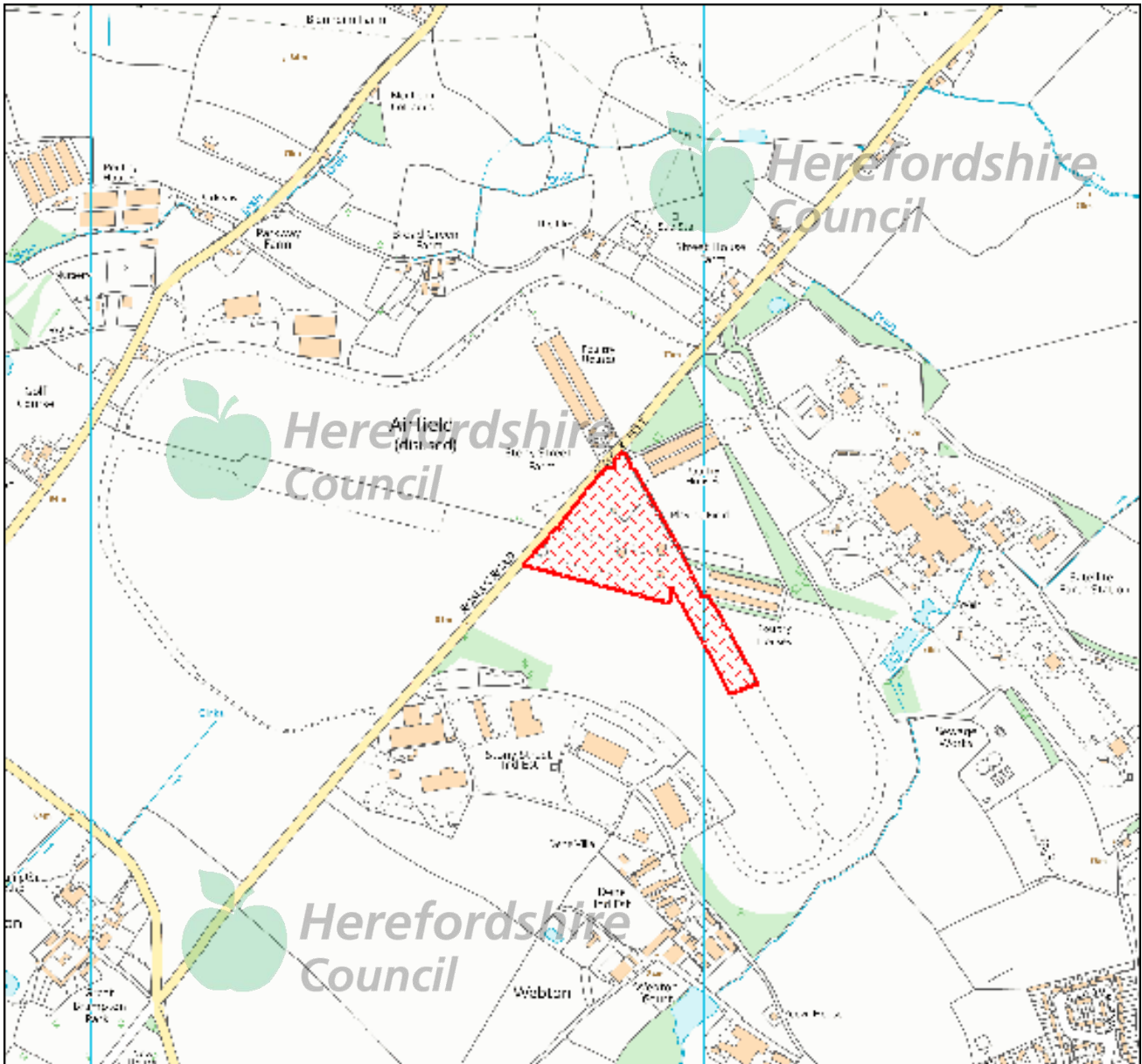
Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 164085

SITE ADDRESS : BRIGHTWELLS AUCTION SITE, STONEY STREET INDUSTRIAL ESTATE, MADLEY, HEREFORD, HEREFORDSHIRE, HR2 9NH

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781