



REGULATORY SERVICES COMMITTEE

25 October 2012

REPORT

Subject Heading:

**P0993.12 – Former Premier Motors,
Jutsums Lane**

Report Author and contact details:

**Variation of Condition 2 of P0962.11-
relocation of vehicle access, including
part removal of building, and changes
to the external appearance of a
building and the addition of conditions
17 and 18 relating to highways .
Helen Oakerbee (Planning Control
Manager) 01708 432800**

Policy context:

**Local Development Framework
London Plan
National Planning Policy**

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

This planning application proposes the variation of condition 2 of planning permission P0962.11 to allow for amendments to the approved details of that planning permission. The amendments would include changes to the site access,

including the part removal of a building, and changes to the external appearance of a building.

RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the completion of a deed to vary the Section 106 agreement completed on 13th June 2012, which broadly required, amongst other things:

- Agreement to set aside the Lawful Development Certificate (reference E0006.95) from the date of commencement of Planning Permission Reference P1578.11 or Planning Permission Reference P0962.11, whichever is commenced first; and
- That the use of 143 Crow Lane for the storing, sorting, handling, trading and processing of scrap metals or material and otherwise pursuant to the Lawful Development Certificate shall immediately cease on either the commencement of the Planning Permission Reference P1578.11 (143 Crow Lane) or Planning Permission Reference P0962.11 whichever is commenced first.

The proposed Deed of Variation would require the following:

- That the definition of “The Second Planning Permission” and “the Second Development” be varied by including reference in both to Planning Reference P0993.12 as an alternative to Planning Reference P0962.11 whichever is implemented;
- All consequential changes to recitals and clauses of the Section 106 Agreement dated 13th June 2012 pursuant to the first bullet point above otherwise the Section 106 dated 13th June 2012 to remain unchanged.
- The owner or developer to pay the Council’s legal fees in respect of the preparation of the Deed of Variation irrespective of whether the Deed is completed.

That Staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below.

1. Time limit - The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Accordance with plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

3. Land contamination - Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;

- a) A Phase I (Desktop Study) Report documenting the history of this site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

- c) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise of two parts:

Part A - Remediation Statement which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a "Validation Report" must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

- d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA ; and

e) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, "Land Contamination and the Planning Process".

Reason:

To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

4. Boundary Treatment - No development shall take place until details of the proposed boundary treatment between the site and the surrounding properties, including along the access route have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the proposal being brought into use.

Reason:-

To protect the visual amenities of the development and prevent undue overlooking of adjoining property, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

5. Refuse Storage - Prior to the first use/occupation of the development hereby permitted, provision shall be made for the storage of refuse, arising from the offices and staff facilities, awaiting collection according to details which shall previously have been agreed in writing by the Local Planning Authority.

Reason:-

In the interests of the amenity of occupiers of the development and also the visual amenity of the development and the locality generally, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

6. Bicycle Storage - Prior to the first use/occupation of the development hereby permitted, provision shall be made for the storage of bicycles for use by staff, according to details which shall previously have been agreed in writing by the Local Planning Authority.

Reason:-

In order that the development accords with the Development Control Policies Development Plan Document Policy DC33.

7. Noise - No development shall commence until details of a scheme have been submitted to and approved in writing by the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. The approved scheme shall be implemented prior to the first use of the site and thereafter retained for the life of the development. The applicant should have regard to the "reasonable" design range for reasonable resting conditions for living rooms (40 dB LAeq T) as prescribed in BS8233:1999-Sound insulation and noise reduction for buildings-Code of Practice.

Reason:-

To prevent noise nuisance to adjoining properties in accordance with the recommendations of Planning Policy Guidance Note 24 "Planning & Noise" 1994.

8. Landscaping - No development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason:-

In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

9. Building Materials - No development shall take place until details of materials and colour scheme relating to the buildings at the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the approved development being brought into use and shall thereafter be retained for the life of the development.

Reason:-

In the interests of visual amenity and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

10. Dust Mitigation – No development shall take place until a scheme for the control of dust-drift has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented from the commencement of development and be retained for the life of the

development. Should dust be observed crossing the site boundary at any time, then any outdoor site operations shall cease immediately and not recommence until the dust-drift has been brought under control.

Reason:-

In the interests of local amenity and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

11. Drainage - The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Reason:-

Waste activities, particularly metal recycling can give rise to water contamination. This contamination must be properly controlled and prevented from entering the surface water drainage system, and causing pollution.

12. Drainage - No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason:-

The site lies on a Secondary Aquifer and the previous use of the site could have resulted in contamination of the soil and groundwater. Infiltration of surface water would provide a potential pathway for contamination to migrate into the underlying secondary aquifer.

13. Operating Hours - No operations/activities shall be carried out on the site outside the hours of 08:00 and 18:00 Mondays to Fridays and the hours of 08:00 and 15:00 on Saturdays. No operations shall be carried out at any time on Sundays, Bank or Public Holidays.

Reason:-

In the interests of local amenity and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

14. Storage Heights – All waste material, containers, and plant to be stored in the open air shall be sited in accordance with the approved plan referenced

2737_CM03B. The height of any loose waste material stockpiled in the open air shall not exceed 3m in height.

Reason:-

In the interests of local amenity and the visual amenity of the locality generally, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

15. Annual Throughput – The annual throughput of waste materials at the site shall not exceed 20,000 tonnes and shall not include any putrescible waste.

Reason:-

In the interests of residential amenity and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

16. That the authorised use pursuant to this planning permission shall not commence on any part of the application site until the operation of the scrap metal facility at No. 143 Crow Lane permanently ceases and all plant, machinery, containers and materials associated with it are permanently removed from the site at 143 Crow Lane which for the avoidance of doubt is the area outlined in blue on Drawing Reference 2737_PL16.

Reason:-

To secure greater openness of the Green Belt in the vicinity of the application site and in particular at 143 Crow Lane which is located within the Green Belt and to improve the visual amenity of that site.

17. Highways – No development shall take place until the proposed alterations to the public highway have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and retained as such for the life of the development.

Reason:-

In the interests of highway safety and in accordance with the Development Control Policies Development Plan Document Policy DC61.

18. Highways – The necessary agreement, notice or licence to enable the proposed alterations to the public highway shall be entered into prior to the commencement of development.

Reason:- In the interests of highway safety and in accordance with the Development Control Policies Development Plan Document Policy DC61.

INFORMATIVES

Reasons for Approval

Having considered the principle of development, the visual impact, the impact on amenity, highways and other considerations, the proposed development is considered to be acceptable, having had regard to the Development Plan and all other material considerations. The proposal has been assessed in relation to the aims and objectives of Policies

DC10 - Secondary Employment Areas
DC33 - Car Parking
DC45 - Appropriate Development in the Green Belt
DC55 - Noise
DC61 - Urban Design
DC63 - Delivering Safer Places

The following policies of the Draft Joint Waste DPD for the East London Boroughs ("the Joint Waste DPD"):

W2 - Waste Management Capacity, Apportionment and Site Allocation
W5 - General Considerations with Regard to Waste Proposals

National Planning Guidance

National Planning Policy Framework

The Highway Authority requires the Planning Authority to advise the applicant that planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted, considered and agreed. The Highway Authority requests that these comments are passed to the applicant. Any proposals which involve building over the public highway as managed by the London Borough of Havering, will require a licence and the applicant must contact StreetCare, Traffic & Engineering on 01708 433750 to commence the Submission/ Licence Approval process.

Should this application be granted planning permission, the developer, their representatives and contractors are advised that this does not discharge the requirements under the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works) required during the construction of the development.

This development will require an Environmental Permit under the Environmental Permitting Regulations 2010 from the Environment Agency, unless an exemption applies. The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and also requires an Environmental Permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and /or land development works are waste.

Treatment of contaminated soil by mobile plant requires a mobile treatment permit. Soil may be re-used on-site as part of a soil recovery operation by registering an exemption with ourselves or by obtaining an Environmental Permit.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste legislation, which includes:

Duty of Care Regulations 1991
Hazardous Waste (England and Wales) Regulations 2005
Environmental Permitting Regulations 2010

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.

Planning Obligations

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

REPORT DETAIL

1. Site Description

- 1.1 The application site comprises land and buildings that were formerly occupied by Premier Automotive Parts. Prior to its closure, approximately two years ago, the site was used as a car retail, repair, and maintenance centre.
- 1.2 Part of the site's southern boundary runs alongside the rear of an existing building, which also formed part of the Premier Automotive Parts site, but which is separate from the site. The remainder of the southern boundary abuts Crow Lane, whilst the eastern boundary lies adjacent to Jutsums

Lane. The northern and western boundaries abut neighbouring sites in industrial or other employment uses. Neighbouring dwellings are located approximately 23m from the eastern boundary, on the opposite side of Jutsums Lane.

- 1.3 The site comprises several imposing buildings. A large, pitch-roofed works dominates the western end of the site, the length of which runs from north to south and attached to which is a smaller works building. Attached to these buildings is what appears to be a former show room building, which has an east-west orientation and is fronted by a hardstanding area alongside Crow Lane. This building and its hardstanding area are located outside of the site boundary and would be unaffected by this application. An office building, having the appearance of a dwelling, is located in the centre of the site and is fronted, to the east, by a vehicle parking area, which dominates the eastern end of the site. The buildings are currently boarded up and the site is fenced off.
- 1.4 The site is designated in the LDF as a Secondary Employment Area. The site's southern boundary abuts Crow Lane, which is washed-over Green Belt.

2. Description of Proposal

- 2.1 This planning application proposes the variation of condition 2 of planning permission P0962.11 to allow for an amended access, the partial demolition of a building, and changes to the external appearance of a building. The latter would involve amendments to the approved fenestration and cladding materials relating to the southern elevation of the main waste recycling building, resulting in the removal of several openings. The proposed demolition works would relate to the western end of an existing, single storey building and would provide space between this building and the waste recycling building for the proposed new vehicular access.
- 2.2 Planning permission P0962.11 granted approval for the change of use of a former car retail, repair and maintenance centre to a scrap yard for the recycling, processing, storage and distribution of scrap metal (excluding the dismantling of vehicles.) The throughput of the approved facility would be up to 20,000 tonnes per annum.
- 2.3 In the interests of reducing the noise impacts on neighbouring residential occupiers, the developer is proposing to move the primary vehicular access to the western end of the site's southern boundary, off Crow Lane. The approved, and historic, access off Justsums Lane would be retained for emergencies only and would otherwise be closed off by an acoustically screened gate.

3. Relevant History

- 3.1 The previous planning decisions of most relevance to this proposal are as follows:

- 3.2 P1011.15 - Material change of elevation – Approved.
- 3.3 P0962.11 - Demolition of part of building and two storey office building and the making good and change of use of the retained buildings to enable the relocation of "The Crows Metals" recycling business for the recycling, processing, storage and distribution of scrap metal (excluding car stripping and breakages) and installation of two weighbridges – Approved.
- 3.4 P1578.11 - Change of use from storing, sorting, handling & processing of scrap metal to B1/B8 at No.143 Crow Lane – Approved.

4. Consultations/Representations

- 4.1 Notification letters were sent to 24 neighbouring properties; a site notice was placed in the vicinity of the site; and an advertisement was placed in the local press. One representation has been received raising queries, which officers have responded to.
- 4.2 Highways Authority – No objections; conditions and informatives recommended.

5. Relevant Policies

- 5.1 The following policies of the LDF Core Strategy and Development Control Policies DPD ("the LDF") are of relevance:

- DC10 - Secondary Employment Areas
- DC33 - Car Parking
- DC45 - Appropriate Development in the Green Belt
- DC55 - Noise
- DC61 - Urban Design
- DC63 - Delivering Safer Places

- 5.2 The following policies of the Joint Waste DPD for the East London Boroughs ("the Joint Waste DPD"):

- W2 - Waste Management Capacity, Apportionment and Site Allocation
- W5 - General Considerations with Regard to Waste Proposals

- 5.3 National Planning Guidance

- National Planning Policy Framework ("the NPPF")

6. Staff Comments

- 6.1.1 This application is put before Members as it would require, should planning permission be granted, a deed of variation to an existing legal agreement. The main issues in this application are considered to be the principle of development, the impact upon the character of the area, impact upon neighbouring occupiers, and other considerations.

- 6.1.2 Planning permission P0962.11 is the subject of a legal agreement, which also relates to planning permission P1578.11. Planning permission was granted for the redevelopment of the site under consideration, in part, on the basis that an existing metal recycling facility at No.143 Crow Lane would be discontinued and transferred to the Former Premier Auto Parts site (“the Site”). Planning consent P0962.11 granted approval for the development of the Site as a metal recycling facility, whilst planning permission P1578.11 granted approval for the redevelopment of the Crow Lane site for B1/B8 purposes, following the transfer of the existing recycling facility to the Site. A legal agreement was completed that linked the two planning permissions and contained a requirement that the applicant cease to use the Crow Lane site for metal recycling once the new use at the Site had been implemented.
- 6.1.3 The application under consideration proposes an amendment to planning permission P0962.11 and, should approval be given, this would result in a new planning consent being issued. Should consent be granted, it would therefore be necessary to amend the afore mentioned legal agreement, by means of a deed of variation, so that it refers to the new permission.

6.2 Principle of Development

- 6.2.1 The proposal is for the variation of a condition relating to an extant planning permission, which was granted by Members in March 2012. The proposed amendment to the approved plans would allow for the creation of a new access, requiring the partial demolition of an existing building, and changes to the external appearance of an existing building. The proposal would not result in any change of use or other fundamental changes to the development already approved at the site. The proposal is therefore considered to be acceptable in principle.

6.3 Design Considerations

- 6.3.1 Policy DC61 states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area. Policy W5 of the Joint Waste DPD states that proposals for new facilities managing non-apportioned waste should not result in material adverse visual and landscape impacts.
- 6.3.2 The site's southern boundary lies adjacent to the Green Belt and the site would be conspicuous from the Green Belt. However, it is considered that none of the proposed works would be detrimental to the visual amenities of the Green Belt, or to the character of the area. It is recommended that the conditions imposed on planning permission P0962.11 be re-imposed in this case, should planning permission be granted.
- 6.3.3 In terms of its visual impact, it is considered that the proposal would be in accordance with Policy DC61 of the LDF and Policy W5 of the Joint Waste DPD.

6.4 Amenity Considerations

- 6.4.1 Policy DC55 of the LDF states that planning permission will not be granted if it would result in a development causing exposure to noise or vibrations above acceptable levels affecting a noise sensitive development such as all forms of residential accommodation. Policy DC61 of the LDF states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity. Policy W5 of the Joint Waste DPD states that new waste facilities managing non-apportioned waste should not result in material adverse impacts on neighbouring amenity including noise.
- 6.4.2 The proposed changes to the previously approved scheme are intended to address concerns, raised by local residents and officers, that the proposal would result in significant adverse impacts on the amenity of residential occupiers at Jutsums Lane. The proposal under consideration would result in the main vehicular access being moved away from its current location on Jutsums Lane, where it faces residential properties, to an area of the site off Crow Lane. The submitted information states that the existing access would be retained for emergency access only. It is anticipated that the proposal would result in an improvement in relation to the impacts a metal recycling site would have on neighbouring occupiers.
- 6.4.3 It is recommended that the conditions imposed on planning permission P0962.11 be re-imposed in this case, should planning permission be granted.
- 6.4.4 It is considered that the proposed modifications, in themselves, would not result in any significant adverse impacts on the amenity of neighbouring occupiers. The proposal is therefore considered to be in accordance with Policies DC55 and DC61 of the LDF, and Policy W5 of the Joint Waste DPD.

6.5 Parking and Highway Issues

- 6.5.1 Policy DC33 of the LDF stipulates the vehicle parking requirements associated with different types of development. Policy W5 of the Joint Waste DPD states that proposals should avoid material adverse impacts on the highway network and access arrangements.
- 6.5.2 Planning permission P0962.11 allows for two vehicular access points into the site. The primary access would be from Jutsums Lane, whilst a further access onto Crow Lane would be used by smaller vehicles. The application under consideration proposes an amendment to the approved access arrangements, with the primary access for all vehicles being taken from Crow Lane. The currently approved primary access would be retained for emergency use only.
- 6.5.3 The Highway Authority has been consulted about the proposal and has raised no objections, subject to the imposition of conditions and informatives

relating to proposed works to the public highway. It is recommended that these conditions be imposed should planning permission be granted.

6.5.4 As the Highway Authority has raised no objections, the highway impact of the proposal is considered to be acceptable, having had regard to Policy DC33 of the LDF and W5 of the Joint Waste DPD.

7. Conclusion

7.1 Subject to the completion of a deed of variation to an existing legal agreement associated with planning permission P0962.11, and subject to the recommended planning conditions, officers consider the proposal to be acceptable having had regard to Policies DC10, DC33, DC45, DC55, DC61, DC63, and DC67 of the LDF, Policies W2 and W5 of the Joint Waste DPD, and all other material considerations.

IMPLICATIONS AND RISKS

Financial implications and risks:

None

Legal implications and risks:

Legal resources will be required to prepare and complete the legal agreement in respect of 143 Crow Lane.

Human Resources implications and risks:

None.

Equalities implications and risks:

None.

BACKGROUND PAPERS

Planning application P0993.12 and planning permission P0962.11.