

TO: PLANNING & REGULATORY COMMITTEE **DATE:** 18 November 2014
BY: PLANNING DEVELOPMENT TEAM MANAGER
DISTRICT(S) GUILDFORD BOROUGH COUNCIL **ELECTORAL DIVISION(S):**
Guildford East
Mr Ellwood

PURPOSE: FOR DECISION **GRID REF:** 502612 151937

TITLE: SURREY COUNTY COUNCIL PROPOSAL GU14/P/01399

SUMMARY REPORT

Land at Hazel House, Merrow Depot, Merrow Lane, Merrow, Guildford, Surrey, GU4 7BQ.

Erection of new boiler flue in connection with installation of new biomass boiler permitted under reference GU14/P/00439 without complying with Condition 3 (hours of operation of the boiler) and Condition 4 (Noise levels of proposed boiler).

Application GU14/P/00439 for the erection of new boiler flue in connection with installation of new biomass boiler within an existing boiler house was permitted in May 2014 and was subject to conditions. This application seeks to implement that planning permission without complying with one of the planning conditions and with amendments to another. The conditions in question are set out in paragraph 6 below and relate to restrictions on the noise emanating from the proposed installation given the proximity of residential dwellings to the site. The conditions imposed reflected the terms of the planning application that was submitted at that time.

The application was publicised by the posting of a site notices and a total of 23 owner/occupiers of neighbouring properties were directly notified by letter. 20 letters have been received as a result of this publicity raising objections to the proposal.

The applicant has submitted additional survey and modelling information with this application (which was not provided with the original proposal) which demonstrates that condition 3 attached to application GU14/P/00439 requiring the boiler to be turned off at night is not reasonable or necessary. They have also submitted additional information which supports the amendments proposed to condition 4 which relates to maximum noise levels to make it clearer and more precisely related to the development proposed. Officers have sought the advice of the County Noise Consultant on the proposal and he considers that the information now provided does demonstrate that the noise emanating from the installation will not cause disturbance to neighbouring dwellings even during the night time hours and the application is therefore acceptable in this regard. In respect of condition 4 which places limits on the noise levels emanating from the installation officers have agreed an amended condition with the applicant which meets the

requirements of the County Noise Consultant, and the recommendation is therefore that the wording of this condition should be amended.

The recommendation is to permit this application subject to conditions

APPLICATION DETAILS

Applicant

Surrey County Council

Date application valid

24 July 2014

Period for Determination

18 September 2014

Amending Documents

Letter from applicant's agent dated 5th September 2014 and attachments (HDG Compact 200 Noise Levels, CADNA Protocol)

E-mail from the applicant's agent dated 17th October 2014

SUMMARY OF PLANNING ISSUES

This section identifies and summarises the main planning issues in the report. The full text should be considered before the meeting.

	Is this aspect of the proposal in accordance with the development plan?	Paragraphs in the report where this has been discussed
PRINCIPAL OF THE DEVELOPMENT	YES	17 - 20
IMPACT ON RESIDENTIAL AMENITY	YES	21 -29

ILLUSTRATIVE MATERIAL

Site Plan

Plan

Aerial Photographs

Aerial

BACKGROUND

Site Description

1. The County Council's Merrow Highway Depot is situated within, but on the edge of the urban area north of Merrow and east of Burpham, approximately $\frac{3}{4}$ mile south of the A3 and on the south side of the Guildford to Effingham Junction railway line. Access to the site is from the west, along a roadway running alongside the railway line from a signal-controlled junction with B2234 Merrow Lane. The access road is shared with industrial and commercial development on an adjoining site to the west. On the south side, the depot is adjoined by residential development and by Merrow Common. In total the depot site extends to approximately 4.65ha.
2. The western part of the site is occupied mainly by office buildings, including the two storey, brick built Hazel House (formerly known as West House), the highways materials laboratory, the West House Annex and a new two storey office building permitted in 2011. There are also several other freestanding single storey buildings, some of which are demountable units. The buildings in this part of the site are surrounded by parking areas. There are also a number of materials storage bays backing onto a retaining wall along the southern boundary.
3. In the central section are buildings which formerly were used as part of the depot as a vehicle testing station and workshop. In 2005, planning permission was granted for a change of use of these buildings and their immediate surroundings to business, light industrial and general industrial use. These buildings currently are not fully occupied. Most were for a time leased to a bus operating company which has now vacated the site.
4. The eastern part contains the operational depot activities, incorporating vehicle and materials storage, both in the open and in buildings, and ancillary office and staff mess facilities. This includes the operating base for the County Council's street lighting contractor. This part of the site adjoins open country forming part of Merrow Common, but there are houses approximately 60m to the south west. Temporary permissions were granted in 2006 and 2009 for the use of the south east corner for the recycling of waste materials arising from highway maintenance activities. Conditions attached to these permissions required the provision of a noise barrier and retaining walls to limit the noise impact of those activities. The recycling activities have now ceased.

5. Activities at the depot have been the source of numerous complaints in recent years. These have arisen principally from the noise impacts of the recycling use and the hours of working by the bus company which formerly occupied the old workshops. As part of the response to the complaints, a new section of acoustic fence between the west end of the barrier installed as part of the recycling operation and the workshop building was granted planning permission in 2012, and has now been installed.

Planning History

- 6 There are a significant number of planning applications on this site but of specific relevance to this current application is planning permission GU14/P/00439 for the erection of new boiler flue in connection with installation of new biomass boiler within an existing boiler house of Hazel House which was permitted in May 2014. This was subject to a number of conditions which reflected the terms of the application submitted at that time and the hours of use put forward by the applicant. It is conditions 3 and 4 which are the subject of this current application and these state:

3. The proposed biomass boiler installation hereby permitted shall not at any time operate between the hours of 7pm to 6am.

Reason: To ensure the protection of nearby residential properties in accordance with Policy G1(3) of the Guildford Borough Local Plan 2003.

4. Noise levels from the proposed biomass boiler installation hereby permitted shall not exceed 30LAeq (5mins) when measured at, or recalculated as at, a height of 4m and a distance of more than 3.5m from a building facade.

Reason: To ensure the protection of nearby residential properties in accordance with Policy G1(3) of the Guildford Borough Local Plan 2003.

THE PROPOSAL

- 7 The current proposal is for the installation of a Wood Pellet Biomass Unit and flue located within the existing boiler house to the rear of Hazel House without complying with planning conditions attached to a previous permission for the flue granted under reference GU14/P/00439. The conditions in question are conditions 3 and 4 as set out in paragraph 6 above.
- 8 The applicants now wish, contrary to information provided in the original application, to operate the boiler during the night. They have submitted additional survey and modelling information with this application in support of this (which was not provided with the original proposal) which demonstrates that condition 3 attached to application GU14/P/00439 requiring the boiler to be turned off at night is not reasonable or necessary. They are seeking to have this condition removed. The applicants have also submitted additional information which seeks an amendment to the wording of condition 4 - which relates to maximum noise levels - to make that condition clearer and more precisely related to the development proposed.

- 9 The Biomass unit in question would replace an existing standard gas fired boiler and would provide heat and hot water to the office buildings by burning wood pellet fuel kept within the storage area adjacent to the boiler room. Planning permission is only required for the flue and not the boiler unit itself. The flue would measure a maximum of 7m from ground level and would project approximately 2.5m above the roof of the boiler house building. Delivery of the wood pellets is anticipated to be once every 14 weeks.

CONSULTATIONS AND PUBLICITY

- | | | |
|----|---------------------------|-------------------------------------|
| 10 | Guildford Borough Council | No objection |
| 11 | County Noise Consultant | No objection subject to a condition |

Summary of publicity undertaken and key issues raised by public

- 12 The application was publicised by the posting of a site notices and a total of 23 owner/occupiers of neighbouring properties were directly notified by letter. 20 letters have been received as a result of this publicity raising objections to the proposal on the following grounds:
1. The original condition was applied to protect residential dwellings
 2. A 24 hour operation would appear to be a waste of resources negating the environmental benefits
 3. The neighbouring dwellings are constantly bothered by noise from this site and the condition should be carefully considered
 4. More frequent truck movements to deliver pellets would cause disturbance
 5. The flue may cause interference to bats which are protected species
 6. The details are difficult to understand by the layman

PLANNING CONSIDERATIONS

- 13 The County Council as County Planning Authority has a duty under Section 38 (6) of the Planning and Compulsory Purchase Act 2004 to determine this application in accordance with the Development Plan unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act 1990 (as amended) (1990 Act) requires local planning authorities when determining planning applications to “have regard to (a) the provisions of the development plan, so far as material to the application, (b) any local finance considerations, so far as material to the application, and (c) any other material considerations”. At present in relation to this application the Development Plan consists of the National Planning Policy Framework 2012 and The Guildford Borough Local Plan 2003.

- 14 The National Planning Policy Framework (NPPF) was adopted in March 2012. This document provides guidance to local planning authorities in producing local plans and in making decisions on planning applications. The NPPF is intended to make the planning system less complex and more accessible by summarising national guidance which replaces numerous planning policy statements and guidance notes, circulars and various letters to Chief Planning Officers. The document is based on the principle of the planning system making an important contribution to sustainable development, which is seen as achieving positive growth that strikes a balance between economic, social and environmental factors. The Development Plan remains the cornerstone of the planning system. Planning applications which comply with an up to date Development Plan should be approved. Refusal should only be on the basis of conflict with the Development Plan and other material considerations.
- 15 The NPPF states that policies in Local Plans should not be considered out of date simply because they were adopted prior to publication of the framework. However, the policies in the NPPF are material considerations which planning authorities should take into account. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies are to the policies in the Framework, the greater the weight they may be given).
- 16 In this case the main issues is whether it is appropriate to amend the conditions attached to the original planning permission GU14/P/00439 for the biomass boiler and associated flue given that those conditions were attached in the interests of the residential amenity of nearby dwellings.

PRINCIPLE OF THE DEVELOPMENT

National Planning Policy Framework 2012

Chapter 10 Meeting the challenge of climate change, flooding and coastal change

Guildford Borough Local Plan 2003

Policy G1 (9) Energy Conservation

- 17 Paragraph 93 of the Framework identifies that planning plays a key role in helping shape places to secure radical reduction in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. Paragraph 97 of the Framework directs that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 98 of the Framework provides the context in which planning applications such as this are to be determined, it directs that when determining planning applications, local planning authorities should *inter alia* approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable.
18. Policy G1 (9) of the Local Plan identifies that the principal aim of the Plan is to provide sustainable forms of development with energy conservation principles reflected in the design of individual buildings.

- 19 The principle of the provision of a biomass boiler and associated flue at this site has already been established with the granting of planning permission GU14/P/00439. The issue for consideration in this case is whether that development is acceptable without complying fully with conditions 3 and 4 on that planning permission. Those conditions are as follows:

3. The proposed biomass boiler installation hereby permitted shall not at any time operate between the hours of 7pm to 6am.

Reason: To ensure the protection of nearby residential properties in accordance with Policy G1(3) of the Guildford Borough Local Plan 2003.

4. Noise levels from the proposed biomass boiler installation hereby permitted shall not exceed 30LAeq (5mins) when measured at, or recalculated as at, a height of 4m and a distance of more than 3.5m from a building facade.

Reason: To ensure the protection of nearby residential properties in accordance with Policy G1(3) of the Guildford Borough Local Plan 2003.

- 20 Both of the above conditions that the applicant is now seeking to amend were attached to the original planning permission in order to ensure that the development did not have any adverse impact on the adjacent residential dwellings by virtue of noise disturbance. The conditions reflected the planning application submitted at that time and the conditions were agreed with the applicant's agent. The applicant has since realised that in order for the boiler to work most efficiently it would need to operate throughout the night and therefore the condition relating to the hours of use is too restrictive. In order to demonstrate that the operation of the boiler during the night time hours would not cause any noise disturbance to neighbouring dwellings the applicants noise consultants carried out further surveys of the background noise in the area during the night time and the level of noise which would emanate from the biomass boiler and this information was submitted with this application and is summarised and assessed in the paragraphs below.

IMPACT ON RESIDENTIAL AMENITY

National Planning Policy Framework 2012

Paragraph 120 - 123

Guildford Borough Local Plan 2003

Policy G1(3) – Protection of Amenities Enjoyed by Occupants of Buildings

- 21 The NPPF identifies that within the overarching roles that the planning system ought to play, a set of core land use planning principles should underpin both plan-making and decision making. These 12 principles include that planning should seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 120 of the Framework states that to prevent unacceptable risks from pollution, planning policies and decision should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Para 123 of the NPPF states that planning decisions should aim to avoid noise

- from giving rise to significant adverse impacts on health and quality of life as a result of new development.
- 22 Local Plan policy G1(3) allows development where the amenities enjoyed by the occupants of buildings are protected from unneighbourly development in terms of privacy, access to sunlight and daylight, noise, vibration, pollution, dust and smell.
- 23 The curtilages of the nearest residential properties to the proposed boiler flue are those located to the south / south east of the site namely 25, 23, 21 and 19 Aspen Close. The rear boundaries of these properties adjoin the Merrow Depot site and are located 34m from the existing boiler house building. The nearest rear wall of a residential property is located 44m from the existing boiler house building.

Noise

- 24 A Noise Assessment was submitted in support of this planning application. This uses three dimensional Noise Modelling Methodology, based on monitoring data, to predict source noise levels. The modelling software calculates noise levels based on a number of assumptions but where those assumptions are not clear 'worse case scenario' assumptions are used. The receptor locations identified are as shown in the table below:

Receptor	Description	Closest Source	Approximate distance to Source (m)	Height (m)
R1	3 Railway Cottages, Merrow Lane	Northern facade	160	4
R2	10 Henchley Dene	Western facade	91	4
R3	11 Henchley Dene	Southern facade	87	4
R4	17 Aspen Close	Southern facade	57	4
R5	21 Aspen Close	Southern facade	45	4
R6	23 Aspen Close	Southern facade	45	4
R7	5 Keeper Close	Eastern facade	75	4
R8	Countryside Transline	Eastern Facade	10	1.5
R9	Hazel House Annex	Western facade	19	1.5
R10	Hazel house	Northern facade	16	1.5

- 25 Baseline ambient noise levels were determined using surveys taken in three locations and over a 7 day period. The measurements were taken in general accordance with BS 7445-1:2003 *The Description and Measurement of Environmental Noise: Guide to quantities and procedures*. This determined that existing ambient noise levels around the site are dominated by noise from the existing Merrow Depot and Merrow Lane Industrial Units during the daytime with significant contributions from the railway line to the north of the site. Distant traffic noise from the A3 was also audible during the day and night time. An assessment was then made to establish the effect of the noise from the proposed biomass boiler. This compared the predicted average noise rating levels from the new boiler with the measured pre-installation existing background noise at the nearest residential dwellings. The assessment demonstrated that plant noise levels are predicted to be below background noise levels at all residential receptor locations and therefore below the Lowest Observable Adverse Effect Level.

- 26 The applicant has therefore demonstrated that the predicted noise levels from the boiler, should it be operating at night, are below the background levels. The County Noise Consultant supports this view and is satisfied that the boiler if operating during night time hours would not cause disturbance to nearby dwellings. Officers therefore consider that based on the new information provided which was not provided with the original application there is no requirement to restrict the operational hours of the boiler during the night and condition 3 on the previous planning permission is not therefore required.
- 27 Turning to condition 4 (set out in paragraph 16 above) this places limits of the amount of noise emanating from the boiler. Negotiations have taken place between the applicant and the County Council's Noise Advisor and it has been agreed that the condition should be amended to the following wording:

The Rating Level, $L_{Ar,Tr}$, of the noise emitted from the biomass boiler shall not exceed the existing representative, night-time L_{A90} background noise level at any time by more than -5dB(A) at the nearest noise sensitive residential receptor location. The assessment shall be carried out in accordance with BS 4142:1997, Method for Rating industrial noise affecting mixed residential and industrial areas. The existing representative, night-time L_{A90} background noise level shall be determined by measurement that shall be sufficient to characterise the environment and the recommended level should be justified following guidance contained within BS 4142.

Should other plant be operational on site during the night-time period, then the cumulative effect of all plant operating should either not exceed -5dB(A) at the nearest noise sensitive residential receptor location or not cause an increase in the existing $L_{Ar,Tr}$ from all plant at the nearest noise sensitive residential receptor location.

- 28 Officers consider that the amended wording of the condition does make it more precise and easier to monitor and maintains appropriate protection of the residential amenities of nearby residential dwellings. Officers therefore recommend that condition 4 is amended in this way.
- 29 In conclusion officers consider that the removal of planning condition 3, and the amendment to the wording of condition 4 is acceptable and there would not be any adverse impact arising as a result of this. The amendments to condition 4 will actually make the condition more precise in terms of future monitoring of the condition if required. As such officers consider that the proposal overall accords with development plan policy in this regard.

HUMAN RIGHTS IMPLICATIONS

- 30 The Human Rights Act Guidance for Interpretation, contained in the Preamble to the Agenda is expressly incorporated into this report and must be read in conjunction with the following paragraph.

- 31 The Officer's view is that there are no adverse impacts on amenity. This proposal does not engage any of the articles of the Convention and has no Human Rights implications.
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CONCLUSION

- 31 The principle of the provision of a biomass boiler and associated flue at this site has already been established with the granting of planning permission GU14/P/00439 subject to conditions. This application seeks to remove one of those conditions (condition 3) and vary another (condition 4). Officers consider that it is appropriate, based on the additional information submitted and technical advice from the County Noise Consultant, to remove condition 3 and amend the wording of condition 4 to be more specific. The removal and amendment of the conditions as proposed will not give rise to any loss of residential amenity to adjacent dwellings which is the reason why they were imposed. As such officers consider that this application is acceptable.

RECOMMENDATION

- 32 That pursuant to Regulation 3 of the Town and County Planning General Regulations 1992, application no. GU14/P/01399 be permitted subject to the following conditions:

Conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development shall be carried out in accordance with the plans submitted and approved under planning permission GU14/P/00439 , namely
 - Site Plan, drawing number 768-001 Rev A dated 20/01/14
 - Block Plan, drawing number 768-002 Rev A dated 20/01/14
 - Building Layout, drawing number MO1 dated Nov 2013
 - Ground Floor Plan, drawing number CM2407 dated 15/02/14
 - Pipe Layout, drawing number 1947-2 Rev A0 dated 12/12/2013
 - Proposed Boiler Room Layout Option B, drawing number 1947-B rev A2 dated 19/11/2013
3. The Rating Level, $L_{Ar,Tr}$, of the noise emitted from the biomass boiler shall not exceed the existing representative, night-time L_{A90} background noise level at any time by more than -5dB(A) at the nearest noise sensitive residential receptor location. The assessment shall be carried out in accordance with BS 4142:1997, Method for Rating industrial noise affecting mixed residential and industrial areas. The existing representative, night-time L_{A90} background noise level shall be determined by measurement that shall be sufficient to characterise the environment and the recommended level should be justified following guidance contained within BS 4142.

Should other plant be operational on site during the night-time period, then the cumulative effect of all plant operating should either not exceed -5dB(A) at the nearest noise sensitive residential receptor location or not cause an increase in the existing $L_{Ar,Tr}$ from all plant at the nearest noise sensitive residential receptor location.

Reasons:

1. To comply with Section 91 (1)(a) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the protection of nearby residential properties in accordance with Policy G1(3) of the Guildford Borough Local Plan 2003.

Informatives:

1. The County Planning Authority confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 186-187 of the National Planning Policy Framework 2012.
2. This approval relates only to the provisions of the Town and Country Planning Act 1990 and must not be taken to imply or be construed as an approval under the Building Regulations 2000 or for the purposes of any other statutory provision whatsoever.
3. The applicant is advised to contact the Principal Environmental Health Officer at Guildford Borough Council, prior to the installation of the biomass boiler.

CONTACT

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BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance

National Planning Policy Framework 2012

The Development Plan

Guildford Borough Local Plan 2003

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