

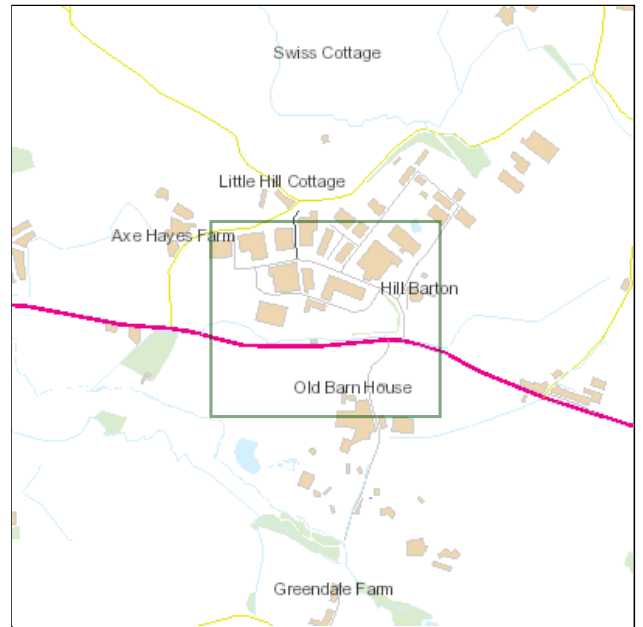
Ward Broadclyst

Reference 21/1129/VAR

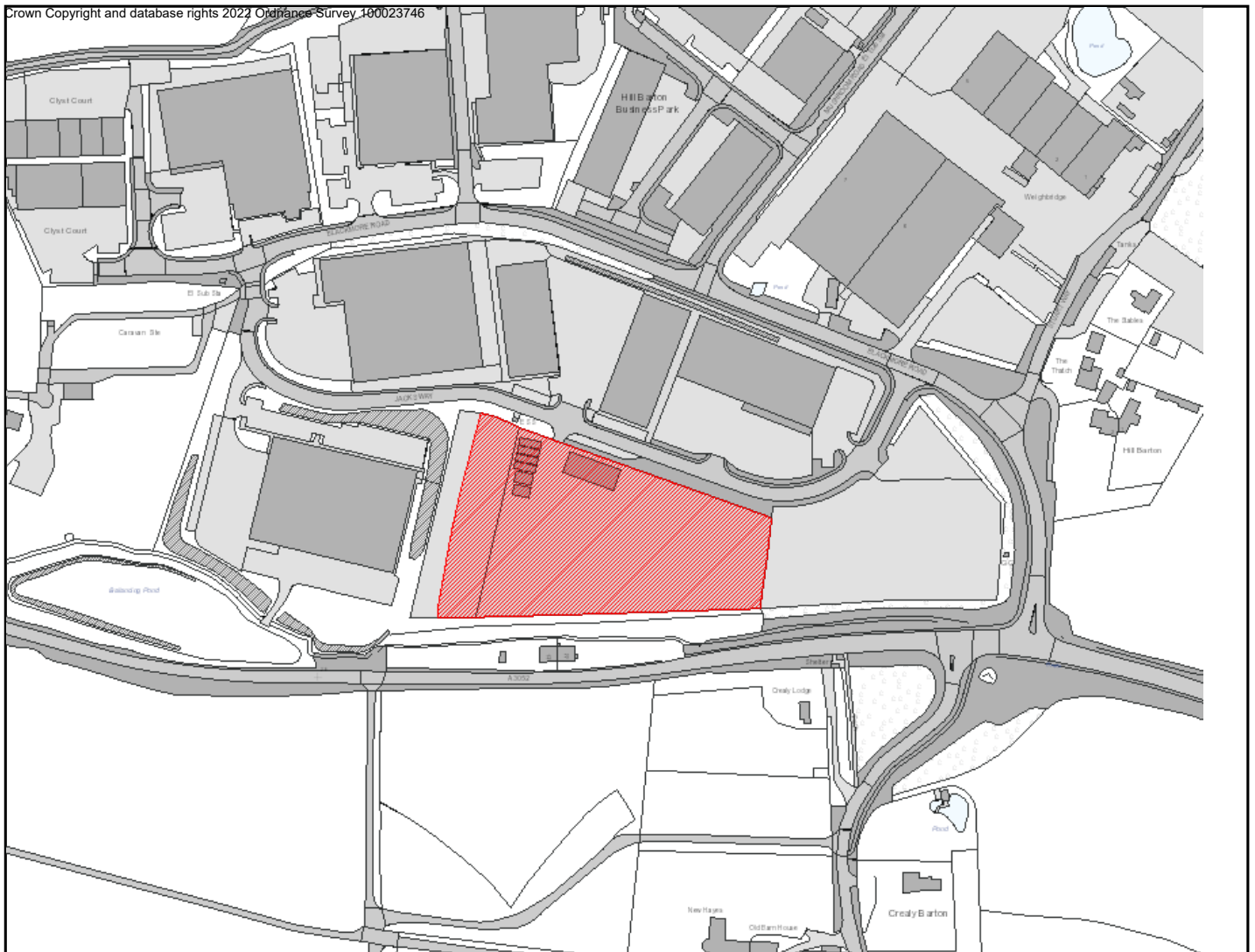
Applicant Mercedes Benz South West

Location Unit 2 Jacks Way Hill Barton Business Park
Clyst St Mary Exeter Devon EX5 1FG

Proposal Variation of conditions 3 (lighting hours) and 4 (hours of operation) of planning permission 13/2069/MRES



RECOMMENDATION: Approval with conditions



		Committee Date: 16th March 2022
Broadclyst (Farringdon)	21/1129/VAR	Target Date: 20.07.2021
Applicant:	Mercedes Benz South West	
Location:	Unit 2 Jacks Way	
Proposal:	Variation of conditions 3 (lighting hours) and 4 (hours of operation) of planning permission 13/2069/MRES	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as the application is a variation to a major application where the officer recommendation is contrary to the view of the Parish Council.

The site lies on the established Hill Barton Business Park and concerns the compounds immediately to the left and the entrance to the estate which are operated by Mercedes as their south west hub for moving group stock around the country. There are a handful of residential properties to the south of the site and to the east.

This application has been submitted as a tandem application to 21/1130/VAR and 21/1131/VAR as together they cover the whole site that Mercedes function from. The other two applications proposed the same variations and have recently been approved at a Chair Delegations meeting.

The proposal has been amended during its consideration. When first submitted the application sought to remove conditions 3 and 4 to enable a 24 hour use of the site and allow the lighting to be used when required. However concerns were expressed by the planning team and by the Council's Environmental Health officer, who, whilst not objecting in principle, required installation of acoustic fencing and further mitigation measures to make the proposal acceptable in noise and light impact terms. Following discussions with the applicant's agent the final amendments have reduced the proposed operational hours down from 24 hours to 0700 to 2200 daily together with the lighting hours complementing these hours, furthermore, operational hours of 0600 to 2200 in the northernmost part of the site to the workshop areas and not include the car storage areas closest to the nearest residents.

Whilst the Environmental Health officer has raised no objections on noise grounds to operations starting at 7am and running until 10pm across the site, subject to a Noise Management Plan and screening to the boundaries, officers feel that operations close to the boundary of residents until 10pm is unneighbourly and would be harmful to the residents amenity from the, movement of cars and the associated headlights and activity. As such, it is considered that any extended hours should be limited to the workshops at the northernmost part of the site which is away (90 metres) from neighbouring dwellings. This is in line with the recent consents on other applications covering the site determined recently at Chair Delegation.

The application is therefore recommended for approval but with the extended hours applying to the northernmost part of the site only.

CONSULTATIONS

Local Consultations

Parish/Town Council

Farringdon Parish Council has major concerns and unanimously finds this application totally unacceptable. The conditions were imposed in the first place in order that the commercial activity of this business would not impinge on the amenity of local residents. The removal of conditions 3 and 4 would be in contravention of the Farringdon Neighbourhood Plan Policy Farr 6. The parish council has already commented) on the recent applications of 21/1129VAR, 21/1130/VAR, 21/1131/VAR. Our comments as submitted before (22/09/2021) on these applications still stand. This application should be refused

PREVIOUS COMMENT 21/1129VAR, 21/1130/VAR, 21/1131/VAR. submitted 22/09/21

Farringdon Parish Council cannot support any extension to working hours and boundary lighting. Extending the hours and lighting to 10pm is extremely anti-social. 7am - 7pm is a long enough period for business hours. Cumulative out of hours noise is already a major concern for the parish. This business is in a rural setting in open countryside. Operations of this kind should remain in Marsh Barton Industrial Estate and not be moved to Farringdon

Policy Farr 6 of the Farringdon Neighbourhood Plan states:

"All business /commercial development should:

- a) respect the character of its surroundings by way of its scale and design
- b) not harm the surrounding landscape
- c) not adversely effect any listed building, heritage asset, or setting
- d) not have an adverse effect on the living conditions of its neighbours
- e) not have an unacceptable adverse impact on the transport network or parking provision
- f) safeguard residential amenity and road safety
- g) promote access on foot by bicycle or by public transport
- h) mitigate any adverse effects of noise air pollution and light pollution and
- i) ensure there is no increase in flood risk "

These current conditions are very important and are in place to protect the amenity of Farringdon residents. They are entirely reasonable and in accordance with policy. The parish council is unanimously against their removal.

Technical Consultations

Environmental Health

I have considered the application 21/1129/VAR and I recommend approval with conditions:

Lighting

1. All existing external lighting must be re-aligned to ensure they are all mounted with a tilt angle of <10 degrees from the horizontal plane.
2. Any future upgrade, additions or replacement of external lighting must ensure that the lighting complies with the requirements for an Environmental Zone 2.
3. A 40m length 2.5m high solid screen/ fence shall be installed along the boundary fence to the rear of 43 & 44 Sidmouth Road (in the same location as the additional hedge line) in order to protect nearby light sensitive receptors from the lights from vehicle movements on the site.

Noise

4. Prior to extending the hours of operation, a Noise Management Plan (NMP) will be submitted for approval by the Local Planning Authority. On written approval of the NMP by the Local Planning Authority, the NMP will be implemented and operated during the hours of 19.00hrs until 07.00hrs. All activity on the site thereafter between the hours of 19.00hrs - 07.00hrs shall be carried out in accordance with the NMP.

The NMP must detail the methods by which the sites management will systematically assess, reduce and prevent noise emissions from the site, through operational techniques, managerial techniques and abatement technologies. The NMP will undertake the following:

- o identify and employ appropriate measures to minimise the generation of noise from the site
- o prevent levels of noise exposure outside the boundary of the site which would result in noise complaints
- o minimise the risk of unplanned 'noisy' events which have the potential to result in offsite noise complaints
- o control noise at source by good operational practices, the correct use and maintenance of plant/equipment and staff training

The NMP is a controlled document and forms part of the Site's Management System. The specification for the periodic review and update of this plan will be set out within the Management System and will be on an annual basis, as a minimum. However, this plan should be reviewed as required should the following occur:

- o significant changes are made to plant/equipment or operational practices on the site

- o the LPA requests that the NMP is updated
- o complaints are received, which on subsequent investigation result in the identification of further control measures or remedial action, in addition to those already set out within the NMP.

Further comments:

Noise

I'm satisfied that the applicants noise management plan should address any environmental health concerns.

Lighting

All existing external lighting must be re-aligned to ensure they are all mounted with a tilt angle of <10 degrees from the horizontal plane.

Any future upgrades, additions or replacement of external lighting must ensure that the lighting complies with the requirements for an Environmental Zone 2 and any LED replacement floodlights should be mounted with a 0 degree upward tilt.

A 7 day programmable time switch is installed to the current lighting. Lighting must be programmed to switch on/off to suit the proposed hours of operation thus ensuring that when the site is not in use the lighting is switched off.

DCC Flood Risk Management Team

We have no in-principle objections to the above planning application, from a surface water drainage perspective.

Observations:

Conditions 3 and 4 do not relate to surface water so we have no comment on the above application.

Other Representations

Two representations has been received as a result of this application raising the following concerns:

- Increased noise pollution
- Increased light pollution
- Increased traffic
- Not suitable near residential properties.

PLANNING HISTORY

Reference	Description	Decision	Date
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13/2069/MRES	Retrospective application for use as vehicle storage compound including construction of temporary workshop building, wash down area, security fencing, 5no C.C.T.V columns and 15 no lighting columns and siting of 4 no temporary portacabin offices. (approval of details of layout, scale, appearance and landscaping pursuant to outline planning permission 12/2597/MOUT).	Approval with conditions	11.09.2014
21/1130/VAR	Variation of conditions 3 (lighting hours) and 4 (hours of operation) of planning permission 14/2650/FUL	Approval with conditions	10.02.2022
21/1131/VAR	Variation of conditions 2 (lighting hours) and 3 (hours of operation) of planning permission 20/0259/FUL	Approval with conditions	10.02.2022

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

D2 (Landscape Requirements)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Neighbourhood Plan

Site Location and Description

The site lies on the established Hill Barton Business Park which is located in the open countryside served by the arterial route of the A3052 Exeter to Sidmouth highway. The site currently comprises car storage for the Mercedes Benz dealership with associated small scale buildings used in the administration of moving the cars up and down the country where the need arises. The site is served directly off the industrial estate feeder road. There are two residential properties immediately to the south of the site.

Proposed Development

This application seeks full planning permission for the variation of conditions 3 (lighting) and 4 (hours of operation) of application 13/2069/MRES to allow the business to operate for extended hours.

Condition 3 of 13/2069/MRES stated the following:

The boundary lighting to the site shall only operate between the hours of 7am and 7pm and the lighting units on the north, east and south elevations shall be angled at no more than 15 degrees above the horizontal plane. Only yellow, sodium, bulbs shall be used in the lighting columns. Low height sensor security lights shall be installed at the site to provide local short term lighting.

(Reason - To control light pollution and to protect the amenity of nearby residents in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan.)

Condition 4 of 13/2069/MRES stated the following:

The use shall not take place other than between the hours of 0700 hours and 1900 hours.

(Reason - To protect adjoining occupiers from excessive noise and disturbance in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan)

It is proposed to extend the hours of operation from 0600 hours to 2200 hours. As originally submitted the applicant was seeking to remove the conditions to allow for a 24 hour operation.

This application has been submitted as a tandem application with 21/1130/VAR and 21/1131/VAR as together they cover the whole site that Mercedes function from. These other two applications propose the same variations and have recently been approved at a Chair Delegations meeting.

ANALYSIS

The main consideration in the determination of this application is the impact of the increased activity on site and use of associated lighting on nearby sensitive noise receptors (private dwellings) and the impact on the wider countryside surroundings.

Impact on amenity

The proposal has been amended during its consideration. When first submitted the application sought to remove conditions 3 and 4 to enable a 24 hour use of the site and allow the lighting to be used when required. However, concerns were expressed by the planning team and by the Council's Environmental Health officer, and following discussions with the applicant's agent the final amendments have reduced the proposed operational hours down from 24 hours to 0700 to 2200 across the main part of the site but to 0600 to 2200 on the northernmost part of the site where the structures and entrance are located. The floodlights would be used between the same times.

The current hours of 0700 to 1900 cover the whole of the site (which is covered by three historical permissions), and it is considered that the properties on the southern boundary of the site are those that would have the greatest impact of any increase in activity on the site.

The Council's Environmental Health Officer (EHO) has been supportive of the planning departments view that a 24 hour operation may have a detrimental impact on the surroundings, especially in the absence of any mitigation measures.

Whilst the Environmental Health officer has raised no objections on noise grounds to operations starting at 7am and running until 10pm across the whole site, subject to a Noise Management Plan and screening to the boundaries, planning officers feel that operations close to the boundary of residents until 10pm is unneighbourly and would be harmful to the residents amenity from the movement of cars and the associated headlights and activity. As the residents pre-date the use on the site, it is considered that they should benefit from a high level of protection to their amenity, particularly given that they adjoin a busy A-road to their southern boundary.

Whilst further fencing could be erected to help screen the use, it is considered that the residents would still be impacted from the use, particularly during the spring and summer months whilst in their gardens or with windows open. As such, it is considered that any extended hours should be limited to the workshops at the northernmost part of the site which is away (90 metres) from neighbouring dwellings and where the application proposes hours of 6am to 10pm. This is in line with the recent consents on other applications covering the site determined recently at Chair Delegation.

In addition, the current lighting should be amended to a less than 10 degree angle rather than the 15 degrees in the previous condition together with sensor for turning off at certain times.

Although officers are not agreeing to the applicants request for an extension of the hours of operation until 10pm closest to the nearest residents, as the application is a for a variation of condition, the local planning authority are entitled to amend the hours to those that they do consider reasonable.

It is not considered that there would be a significant increase in traffic as a result of this proposal as all that is being sought is additional business hours to work on cars within the group stock/on site, and there is limited capacity for more vehicles on site.

There would be no wider visual impact.

The proposal is therefore considered to be acceptable in relation to Policies EN14 and D1 of the EDDC Local Plan but subject to lesser hours than being requested by the applicant.

RECOMMENDATION

APPROVE subject to the following conditions:

1. East Devon District Council as local planning authority HEREBY APPROVE THE FOLLOWING RESERVED MATTERS of the above described development proposed in the application numbered as shown above and in the plans and drawings attached thereto, relating to:-
 - a) Layout
 - b) Appearance
 - c) Scale
 - d) landscaping

This Reserved matters application numbered as shown above is made pursuant to the Outline Planning Permission 12/2597/MOUT granted on the 14th March 2013.

The following conditions attached to the Outline Planning Permission referred to above are discharged in relation to this site:

5, 6, 8, 9, 10, 14, 15, 16 and 17.

The following additional conditions are attached to this Reserved Matters approval:

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. The boundary lighting to the site shall only operate between the hours of 6am and 10pm and the lighting units on the north, east and south elevations shall be angled at no more than 10 degrees above the horizontal plane. Only yellow, sodium, bulbs shall be used in the lighting columns. Low height sensor security lights shall be installed at the site to provide local short term lighting. Any future upgrades, additions or replacement of external lighting must ensure that the lighting complies with the requirements for an Environmental Zone 2 and any LED replacement floodlights should be mounted with a 0 degree upward tilt. A 7 day programmable time switch shall be installed to the current lighting prior to the extended hours being implemented. Lighting must be programmed to switch on/off to suit the proposed hours of operation thus ensuring that when the site is not in use the lighting is switched off.

(Reason - To control light pollution and to protect the amenity of nearby residents in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan.)

4. The use of the northern most part of the vehicle compound (extent identified in the Noise Management Plan dated 1st November 2021) shall not take place other than between the hours of 0600 hours and 2200 hours. The remainder of the vehicle compound approved under this application shall not be used outside of the hours of 0700 and 1900 hours.

(Reason - To protect adjoining occupiers from excessive noise and disturbance in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan)

5. Notwithstanding the submitted details, within 3 months of the date of this decision the planting details (including the 1.8m planting to the inside of the security fence) as shown on the Landscape Plan (dated June 2014), Additional Planting South on drawing number SPP.1457.4B (dated July 2014) and as detailed on the Planting and Maintenance Notes (dated 11.03.14) shall have been provided and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity of adjoining residents and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the East Devon Local Plan and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Emerging New Local Plan.)

6. Within 3 months of the date of this permission, the interception swales as detailed within the Flood Risk Assessment dated 06 May 2014 hereby approved shall have been provided and in full operation. The swales shall therefore remain in perpetuity.

(Reason - In the interests of the amenity of nearby residents and to adequately control surface water run off in accordance with Policies D1 (Design and Local Distinctiveness) of the East Devon Local Plan and Emerging New Local Plan and in accordance with the national Planning Policy Framework.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

The historical planning application is referenced under 13/2069/MRES for which the approved plans were as follows:-

Number Type of Plan dated

1303-02A2PLAN REV C Layout 16.09.13

A	Photos	16.09.13	
B	Photos	16.09.13	
C	Photos	16.09.13	
D	Photos	16.09.13	
1	Proposed Floor Plans	16.09.13	
PORTACABIN	Proposed Floor Plans	16.09.13	
PORTACABIN DETAILS	Additional Information	16.09.13	
MARQUEE LAYOUT	Layout	16.09.13	
1303-02A2PLAN REV A	Layout	16.09.13	
7016- SITE PLAN	Proposed Site Plan	16.09.13	
E	Photos	16.09.13	
S-D-01 P2 (DRAINAGE DETAILS)	Other Plans	16.09.13	
CONCRETE SLAB INFO	Additional Information	16.09.13	
	Design and Access Statement	16.09.13	
C13460-E-900 T01 (LIGHTING)	Layout	16.09.13	
FENCING DETAILS	Additional Information	16.09.13	
F	Photos	16.09.13	
BELL CORNWELL LETTER	Additional Information	25.09.13	
COLUMNS DETAILS	Additional Information	25.09.13	
MRECEDES BENZ	Additional Information	25.09.13	
	Flood Risk Assessment	05.08.14	
PLANTING & MAINTENANCE NOTES	General Correspondence	11.03.14	
SPP.1457.4B	Other Plans	05.08.14	
LANDSCAPE PLAN	Other Plans	05.08.14	

This decision notice for the variation should be read in conjunction with these previously approved plans.

Plans relating to this application:

identifying area for use	Other Plans	04.11.21
	Noise Impact Assessment	04.11.21

List of Background Papers

Application file, consultations and policy documents referred to in the report.