

**WELWYN HATFIELD BOROUGH COUNCIL  
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

**DELEGATED APPLICATION**

**Application No:** 6/2020/2399/PN16  
**Location:** 51 Kentish Lane Brookmans Park Hatfield AL9 6NG  
**Proposal:** Prior Approval for temporary use of the site (both the house and garden) for commercial film-making for no more than 9 months in any 27 month period.  
**Officer:** Mr David Elmore

**Recommendation:** Prior Approval Required and Refused

<b>Context</b>	
<b>Site and Application description</b>	<p>This application seeks Prior Approval for temporary use of the site (both the house and garden) for commercial film-making for no more than 9 months in any 27 month period.</p> <p>This submission is under Schedule 2, Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).</p> <p>Paragraph E2(2) states that Class E development is permitted subject to the condition that before the start of each new filming period the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—</p> <ul style="list-style-type: none"> <li>a) the schedule of dates which make up the filming period in question and the hours of operation,</li> <li>b) transport and highways impacts of the development,</li> <li>c) noise impacts of the development,</li> <li>d) light impacts of the development, in particular the effect on any occupier of neighbouring land of any artificial lighting to be used, and</li> <li>e) flooding risks on the site,</li> </ul> <p>and the provisions of paragraph E.3 apply in relation to that application.</p> <p>Paragraph E.3(10)(b) outlines that the local planning authority must, when determining an application, have regard to the National Planning Policy Framework (NPPF), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.</p>
<b>Constraints (as defined within WHDP 2005)</b>	<p>PAR - PARISH (HATFIELD) - Distance: 0            PAR - PARISH (NORTH MYMMS) - Distance: 87.72            Wards - Brookmans Park &amp; Little Heath - Distance: 0</p>
<b>Relevant planning history</b>	<p><u>Enforcement</u></p> <p>Enforcement Notice served and upheld.</p> <p>Alleged Breach: Without planning permission, the material change of use of the land from a dwellinghouse to a mixed use as a dwellinghouse and a film set.</p>

	<p>Compliance Period: Three months</p> <p>Requirements of Notice: Cease the use of the land as a film set and remove all vehicles and other materials and works associated with the unauthorised development.</p>		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 11	Object: 3	Other: 1
<b>Publicity</b>	<p>Neighbour notification letters: 05 October 2020</p> <p>Site Notice Display Date: 15 October 2020</p> <p>Site Notice Expiry Date: 5 November 2020</p>		
<b>Summary of neighbour responses</b>	<p>A total of 13 neighbour responses were received – 10 in support and 3 objections. The reasons are summarised below</p> <p><u>Support</u></p> <ul style="list-style-type: none"> <li>- Any filming work undertaken is of the highest possible standard in terms of conduct and concern for other residents.</li> <li>- The quality of filming undertaken frequently paints the whole road and area in a good light.</li> <li>- The use adds value and interest to the whole area.</li> <li>- Traffic never caused a problem.</li> <li>- Filming use is handled with complete professionalism and does not interfere with anyone.</li> <li>- The boundary barrier between the properties means that it is impossible to trouble them as noise is kept within permitted limits.</li> <li>- Filming in our area is great as it not only supports the British film industry but also puts Hertfordshire on the map.</li> <li>- Added funds to local economy.</li> <li>- Keeps people employed in an industry which has been badly hit by COVID-19.</li> </ul> <p><u>Objection</u></p> <ul style="list-style-type: none"> <li>- The applicant states that there will be no overnight accommodation. As far as I am aware, 51, like every other property in Kentish Lane is a house.</li> <li>- I note that at Highway Authority will require a parking restriction Zone of for the property and for. 200m on each side. Since they regularly have a line of contractor's vehicles parked on the pavement or in the road I would have no confidence that the applicants will adhere to any such restriction.</li> <li>- A 9 month in any 27 permission could therefore result in massive disruption to the neighbourhood and will deny immediate neighbours the right to quiet enjoyment of our property.</li> <li>- Filming has always resulted in considerable disruption when they have filmed in the past.</li> <li>- People supporting this application don't actually live close to No 51 Kentish Lane. Vehicles parked in order for filming to take</li> </ul>		

	place were mostly in the road which is on a sharp bend and extremely dangerous which is why the filming was stopped previously.
<b>Consultees and responses</b>	<p>North Mymms Parish Council – Objection with comments:</p> <ul style="list-style-type: none"> <li>- NMPC have concerns given the history of this site with previous filming and the traffic issues it caused and would recommend the hours of working/parking is reduced to 08.00 hours-18.00 hours and there should be no obstruction of the highway. As recommended by HCC Highways provision of traffic marshalls should be a Condition.</li> <li>- Vehicles on the highway should be parked in a spaced manner so that traffic can pass. No lighting should be within 2 metres of the boundary/highway and never be directed towards the road.</li> </ul> <p>WHBC Public Health &amp; Protection Team – Conditions recommended HCC Highways – Conditions recommended</p>
<b>Main Issues</b>	
<b>Schedule of dates and hours of operation</b>	<p>Section 5 of the application form states that the proposed filming period would start on the 02/11/2020 and end on the 31/12/2022 (a 26 month period) and the hours of operation would be from 07:30 to 21:30.</p> <p>The applicant’s agent has clarified however that the filming period would not be for a 26 month period and this was a mistake on the application form. Film-making would also be on an ad-hoc basis and the cumulative filming periods would not be more than 9 months in any 27 month period.</p> <p>The Council’s Environment Health Officer has been consulted for this application and, whilst they did not formally object, they have expressed concern that based on the submitted information, it is difficult to judge whether the proposed hours of operation would have an acceptable or unacceptable effect on the living conditions of neighbouring properties in terms of noise. Noise impacts are considered later in this report.</p> <p>The application does not provide any information or insight into the type of film-making which would likely take place at the site, film-making occurrences (i.e. how many days including preparation, actual filming and strike-off), or the expected scale of operations.</p>
<b>Transport and highways impact</b>	<p>The application form states that that sufficient parking provision will be made on site “to ensure all vehicles, including production vehicles, can be safely accommodated within the site and that there are no impacts on viability or safety for highway users”. It then goes on to state that 14 vehicles can be accommodated within the site and that the filming companies will use a remote base from where they transport people in and out of the filming location. It is also stated that additional parking can be accommodated at No.53.</p> <p>The Highways Authority have been consulted for this application and note that the site is located next to a busy “B” road and in a close proximity to a bend in the road, where three accidents of which two were serious were recorded over the past 5 years period. The contributory factor to all accidents was speeding and loss of control over a vehicle.</p> <p>To ensure all vehicles are accommodated within the site and to prevent</p>

	<p>vehicles from parking on the highway, the Highways Authority recommend a temporary traffic regulation order is put in place with to “no parking/no waiting restrictions” in front of the site and over a distance of 200m measured from each side of the access, and a monitoring programme to control the level of traffic queuing and parking overspill. These measures can be secured through planning conditions.</p>
<p><b>Noise impacts</b></p>	<p>Paragraph 127(e) of the NPPF outlines that planning decisions should ensure that developments have a high standard of amenity for existing and future users.</p> <p>Paragraph 180 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location and this should take into account living conditions. In doing so, they should avoid noise giving rise to significant adverse impacts on health and the quality of life.</p> <p>As mentioned above, there is an absence of information regarding the likely type and occurrences of film-making intended at the site and the expected scale of operations to inform potential noise impacts. Whilst it is appreciated that use of the site for film-making purposes would be done on an ad-hoc basis, it cannot be reasonably concluded for the purpose of this application that the development would not have an unacceptable noise impact on neighbours.</p> <p>There is history of film-making at the site and in December 2004 the Council issued an Enforcement Notice requiring the use of the land as a film set to cease and for all vehicles and other materials associated with the unauthorised use to be removed. A public inquiry appeal against this enforcement was upheld in November 2005.</p> <p>There were film-making activities from the beginning of 2002 to the end of May 2005. This was broken down into actual filming days, days during which preparation occurred prior to filming and days for dismantling/returning everything to normal which are referred to in the industry as “strike off days”.</p> <p>In 2002, there were 10 filming and 2 preparation days. In 2003, there were 15 days on which filming took place with a total of 23 days for all activities. In 2004, there were 18 days filming and 22 days in total, and 8 days filming out of a total of 10 days in the 2005 period.</p> <p>Preparation and strike-off were limited to the normal working day. The majority of filming had taken place from 7.30am through to 6.30pm with only 4 days in 2003 and 3 days in 2005 when filming has extended into the evening but not any later than 10.30pm.</p> <p>At the appeal inquiry, the occupant of the adjacent property at No.47 Kentish Lane, gave evidence that the filming caused him repeated disruption. There was a significant amount of equipment and lighting brought into the site when filming took place. The general pattern was that the film crew arrived about 7am with a fleet of lorries. They parked outside on the road and then backed up into the property one by one. This caused disturbance particularly as they had their beepers on as they reserved. This took place from 7am to 8.30am. A generator was parked near to the boundary with his property. This produced a continuous droning noise that went on all the time up to 11.30pm. There was also noise disturbance arising from on-site activity, for example, scaffolding being put up or people talking. The occupant of</p>

	<p>No. 59 Kentish Lane complained of noise arising from vehicles that visited the site and stopped and started outside the house. The occupants were disturbed by noise from the filming activities within the site which they found to be intrusive.</p> <p>There was evidence of the arrival of some 30 film crew staff in the morning and their departure late at night. On one occasion, in 2003, the Council's Enforcement Officer witnessed approximately 50 people in the front garden of the property.</p> <p>The Inspector considered that it was clear that there was intense activity during filming days with noise from visitors and traffic and general comings and goings. In his view, the noise and disturbance resulting from the unauthorised use had a significant adverse impact on the living conditions of neighbours. Based on the submitted information, a similar outcome could likely result and there would be conflict with the NPPF.</p> <p>Two conditions are recommended by the Council's Environmental Health Officer with regard to noise impacts. The first condition regarding noise from filming activities is not precise or enforceable. The second condition regarding noise from plant equipment is not precise or enforceable as it requires the responsible party (i.e. the applicant) to ensure that the use of plant and equipment does not cause a statutory noise nuisance to neighbours. The inclusion in these conditions of the requirement to not cause a statutory noise nuisance is a direct response to the lack of information regarding noise impacts and uncertainty about the nature and scale of film-making operations.</p>
<b>Light impacts</b>	<p>Paragraph 180(c) of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location and this should take into account living conditions. In doing so, they should limit the impact of light pollution from artificial light on local amenity.</p> <p>The application form states that artificial lighting may be used on occasions to create optimum conditions for filming, such as on dull weather days or in the early evenings during the winter. However, any artificial lighting used externally will be fitted with spillage protectors and will be in accordance with the limitations in E1(c) of this Class.</p> <p>The Council's Environmental Health Officer has commented that lighting systems must also be used in such a way that light does not shine directly into any neighbouring properties.</p> <p>A planning condition can ensure that any artificial lighting directed away from the adjoining properties and fitted with spillage protectors. Such measures will prevent any adverse effect on occupiers of neighbouring land.</p>
<b>Flooding risks</b>	<p>The application site is located within Flood Zone 1, does not have critical drainage problems and has not been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.</p> <p>It is therefore considered that the development is acceptable in flood risk terms.</p>
<b>Conclusion</b>	
<p>Based on the submitted information, it cannot be reasonably concluded that the proposed development would not harm the living conditions of neighbouring properties in terms of</p>	

noise impacts. Therefore, in the opinion of the authority, the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with Schedule 2, Part 4, Class E, E.2(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior approval is required and refused.

**Reasons for Refusal:**

1. Based on the submitted information, it cannot be reasonably concluded that the proposed development would not harm the living conditions of neighbouring properties in terms of noise impacts. Therefore, in the opinion of the Local Planning Authority, the developer has provided insufficient information to enable the Authority to establish whether the proposed development complies with Schedule 2, Part 4, Class E, E.2(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior approval is required and refused.

**REFUSED DRAWING NUMBERS**

2.

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
Location Plan		Location Plan	18 September 2020
Block Plan		Block Plan	28 September 2020

**Determined By:**

Mr Mark Peacock  
12 November 2020