

PLANNING APPLICATION NUMBER:P05/2604

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| Type of approval sought | Full Planning Permission |
| Ward | Cradley & Foxcote |
| Applicant | Fish 4 Dogs |
| Location: | FISH 4 DOGS, UNITS 8 & 17 SALTbrook TRADING ESTATE, SALTbrook ROAD, HALESOWEN, WEST MIDLANDS, B63 2QU |
| Proposal | RETROSPECTIVE APPLICATION FOR REFRIGERATION UNIT AND SECURITY FENCING. PROPOSED CHIMNEY |
| Recommendation Summary: | APPROVE SUBJECT TO CONDITIONS |

ADDITIONAL OBSERVATIONS

1. Development Control Committee may recall this application was deferred on 6th February 2006 requesting further information from an Environmental Health point of view, to be submitted in order to consider this application. The previous officers' report discussing the impact of the security fencing and refrigeration unit have not altered, comments regarding these elements have been adequately addressed.
2. Additional observations particularly refer to the chimney stack and extract silo which have since been constructed to the northwestern elevation of the unit. This consists of an extraction silo set on a steel framed support plinth, measuring 4.5m deep by 2.5m wide and 3m high. The chimney is 10m high.
3. Further discussion of this element will ensue, the determining issue being whether the chimney and extraction silo impact upon the character and amenities of the area with specific regard to residential properties.

FURTHER PUBLIC CONSULTATION

4. Following publicity of amended plans sent, and in addition to the objections previously submitted, three further letters were received, adding that;
 - Raising the chimney will only spread odours; company has tried many methods of odour control, which have been completely unsuccessful.

- The company has been running their operations since before June 2005 without any planning permission or permit.
- Timing of determination of this application is inappropriate, as most leisure time of residents is spent indoors and winds blow predominantly from the east/northeast.

ENVIRONMENTAL HEALTH COMMENTS

5. Fish4Dogs Limited began manufacturing pet food from frozen raw fish on the Saltbrook Trading Estate in June 2005. This activity is regulated by the Council under the Pollution Prevention and Control (England & Wales) Regulations 2000 (the regulations) and requires a Permit to operate which controls emissions to air including odour.
6. The Council became aware of the company's activity in June 2005 following the receipt of numerous complaints about odour arising from the manufacture of the pet food. The company did not have a Permit to operate and the Council immediately required it to apply for a Permit. An application from the company was subsequently duly made to the Council in July 2005.
7. A number of attempts were made by the company to abate the odour, but the Council continued to receive complaints from the surrounding residents. In October 2005 a notice was served on the company requiring further testing to take place. When a filtration unit was constructed in March 2006 with a larger carbon filtration plant, the company submitted a report in May 2006 identifying 98%-99% efficiency.
8. A Council employed consultant commenting on this report stated that on the basis of data provided the performance of the system appeared to be satisfactory and subject to good maintenance procedures along with an adequate size stack there should be no offense. A higher chimney to serve this plant was subsequently erected in May 2006.
9. Since the improvements and commissioning of a new carbon filter plant, the Council has continued to receive complaints, upon which an intense formal odour monitoring exercise involving seven Officers has been undertaken at locations down wind of Fish4Dogs between 30th October 2006 and 5th November 2006.

10. None of the participating Officers identified offensive odour during any of the monitoring exercises when they assessed the odour in accordance with 'Technical Guidance Note IPPC H4 - Horizontal Guidance for Odour'.
11. In view of the lack of evidence from officers of an offensive odour at likely recipient's premises it is considered that a permit with conditions should be issued to the Company. The issue of such a permit will enable the Council to exercise control over the operations at the premises which it is unable to do at present with no permit in place. The permit cannot be issued until planning permission has been granted.

RESIDENTIAL AMENITY

12. As previously commented upon, the Head of Public Protection has advised that taller chimneys are more efficient at dispersing odour than smaller structures. The applicant has followed Council guidance in constructing a chimney some 10m in height, this will enable the lawful use of the unit to continue with adequate odour dispersal and without detriment to the residential amenities of nearby dwellings.
13. The repositioning of the silo extraction and chimney result in a minimum distance of 55m between the rear elevation of properties in Heale Close and a greater distance of 67m is still maintained to the properties in Mogul Lane. Given that intervening vegetation will further restrict views out of habitable rooms, the chimney is not considered to have a detrimental impact upon the visual amenity of the occupiers of the above described properties.
14. Similar in height overall to the chimney previously considered, the development projects 4 metres above the existing ridge height of the unit. However, it will not have an adverse effect upon the character of the area due to the nature of activity and buildings situated in the surrounding area. Chimneys are characteristic developments within industrial areas and so this chimney will not appear as an incongruous feature for this locality, which has as a backcloth, the larger former Clancey foundry.
15. Under the Pollution Prevention Control (England and Wales) Regulations 2000, the statutory guidance requires that if a Permit is issued it shall include a condition which requires that odour emissions from the process shall be free

from offensive **odour** at any location at or beyond the site boundary as perceived by the local authority regulator and should not give reasonable cause for annoyance to local residents due to odour at their properties.

16. On this basis, satisfactory legislative powers are available through the granting of Permit to control any offensive odours at Fish4Dogs. Whilst the granting of the Permit and Planning Permission are separate processes and each can be granted without the other, for the reasons outlined above the applicant has demonstrated that the proposed extraction silo and chimney are acceptable for the building and surrounding area, without having an adverse impact upon residential amenity.

THE ORIGINAL REPORT NOW FOLLOWS

SITE AND SURROUNDINGS

1. The industrial units are located on Saltbrook Trading Estate an industrial trading estate located off Saltbrook Road, Halesowen. The industrial estate falls within a Key Industrial Area as allocated within the adopted UDP.
2. The two proposed units belonging to the applicant are located at the North end of the industrial estate adjoining six other industrial units. To the north of the industrial estate there are residential dwellings adjacent to a car park utilised by Clancey's Foundry.

PROPOSAL

3. Retrospective planning permission is sought for a refrigeration unit, security fencing, extract silo and chimney.
4. This application has been submitted as a result of complaints received from nearby residents who raised issues relating to dispersal of odour and noise pollution. It was identified that planning permission was required for the refrigeration unit,

fencing, silo and chimney, also that an increased chimney would be needed to adequately disperse odour as advised by the Head of Public Protection.

5. The current use of the premises is lawful with regard to the permission approved on the site and does not require a specific permission.

HISTORY

4. The previous planning application relating to the site is highlighted in the table below.

| APPLICATION No. | PROPOSAL | DECISION | DATE |
|------------------------|---------------------------------------------------------|--------------------------|-------------|
| CC/79/2718/R | Construction of units for industrial/warehouse purposes | Approved with Conditions | 13/12/79 |

PUBLIC CONSULTATION

5. Nineteen letters of neighbour notification were originally sent to nearby residential dwellings and adjacent industrial units. In response twenty letters of objection from the nearby residential dwellings have been received.
6. Nineteen of the responses were individually signed copies of one objection letter outlining the following concerns;
 - The odours from the refrigeration unit and waste products will leave a residual stench especially when it drains into the ground in the hot weather during summer.
 - The promotion of vermin around the unit.
 - The refrigeration unit is situated on an allocated parking space and should be situated within the premises to comply with condition 6 of planning application – CC/79/2718/R
 - The proposed chimney stack will not be able to comply with an IPPC permit condition which states that, 'No odour beyond the boundary'
 - Reservations regarding the installed propane gas tanks and issues of safety from possible vandalism/road accidents

7. Waste products and emissions are controlled by the Local Authority Pollution and Prevention Control (LAPPC) permit and are not therefore a planning consideration within this application. The objection relating to vermin is a matter to be dealt with under Environmental Protection legislation. With regards to the refrigeration unit located on an allocated car parking area, the Traffic & Road Safety section have been consulted and raised no objections to loss of parking on the site. The alleged breach of condition 6 of planning application (CC/79/2718/R) is incorrect as the condition relates to hours of operation and does not specify that all machinery should be located within the premises. The reservations regarding the safety of the existing propane gas tanks is being addressed in this application with retrospective permission being sought for a 2 metre high security fence around the units.
8. A letter of objection was received from the resident at No. 50 Mogul Lane stating the following concerns;
 - Raising the chimney height will only spread the odours over a greater area thus giving rise to even more complaints about the smell. If a low cloud ceiling is present the odour will still affect the immediate area.
 - The chimney stack if not well insulated, will cause any water vapour in the stack to corrode and rot the stack creating the need for frequent renewal.

OTHER CONSULTATION

9. The Head of Public Protection has been consulted and provided the following comments;

Due to the close proximity of residential properties to the applicant's site, there would be an adverse effect on residential amenity if there were unrestricted use of the refrigeration plant and associated operations/activities at the premises. Environmental Protection have therefore requested that a condition be included limiting the hours of operation at the premises and associated works/activities in line with the time restrictions approved in the original application for the industrial/warehouse units - CC/79/2718/R Condition 6 which stipulates the operating hours as only between the hours of 7:00am –

7:00pm on Mondays to Fridays inclusive and between the hours of 8:00am – 2:00pm on Saturdays and at no time on Sundays or Bank Holidays.

10. No objection is raised to the chimney as they consider it allows the odour to be dispersed more adequately
11. The Head of Traffic and Road Safety considered all aspects of the application and raised no objections regarding the minimal loss of parking at the site.

RELEVANT PLANNING POLICY

11. Adopted Unitary Development Plan (2005)

- * DD1 – Urban Design;
- * DD5 – Development in Industrial Areas
- * EP7 – Noise Pollution

ASSESSMENT

12. The determining issue is whether the proposed chimney, refrigeration unit and security fencing impacts upon the character and amenities of the area with specific regard to residential properties.
13. The chimney with restraining cables and extract silo have been constructed to the northwestern elevation of the unit. Although this development will project 4 metres above the existing ridge height of the unit, it will not have an adverse effect upon the character of the area due to the nature of activity and buildings situated in the surrounding area. Chimneys are characteristic developments within industrial areas and so this chimney will not appear as an incongruous feature. The area is allocated as a Key Industrial Area within the adopted UDP and to the East of the applicant's site is Clancey's foundry, a much larger industrial premises that dominates the skyline to a greater extent in comparison to this modest proposal. The chimney, with a total height of 10m above ground level is to be situated 67m from the nearest habitable window so there will not be an adverse impact upon the outlook from the residential dwellings nearby. The Head of Public Protection has advised that taller chimneys are more efficient at dispersing odour than smaller structures and this proposal would

enable the lawful use of the unit to continue with adequate odour dispersal. This part of the development would not adversely impact upon the character of the area or residential amenity of nearby residences and therefore adheres with policy DD5 of the adopted UDP (Development in Industrial Areas).

14. It should be noted that the dispersal of odour is subject to the Pollution and Prevention Control Act 1990 which has relevant powers in this matter, therefore planning conditions or restrictions are unable to be imposed for such controls.
15. The 2m high security fencing located around the refrigeration unit and the existing gas tanks adjacent to the North elevation of the unit will not have an adverse impact upon the character of the area due to the development being characteristic of an industrial area and similar to fencing already present at the boundary of Clancey's foundry. The palisade fencing will act as a security measure, protecting the refrigeration unit and gas tanks from vandalism and possible damage from vehicular movements. This part of the proposal therefore adheres with policies DD1 and DD5 of the adopted UDP (Urban Design and Development in Industrial Areas).
16. The refrigeration unit, sited adjacent to the north elevation of the industrial unit is 2.5m high and 12m long with an attached brick built structure, 1.9m in width and 1.8m depth. The scale and type of the development is appropriate within an industrial area and will not appear as an incongruous or dominant feature. The noise created by this unit however, has caused a nuisance during the evening and night to local residents with Environmental Protection serving a noise abatement notice on the applicant. As a result Environmental Protection has requested that the hours of operation for this unit are restricted along with the use of the premises and associated works/activities to protect the amenity of the nearby residential dwellings, as per condition 3 below.
17. The condition above relating to time restrictions has been confirmed in writing by the applicant as acceptable. They have commented that the time restrictions will not impact upon the storage of their frozen product.

CONCLUSION

18. The proposed development would have no adverse effect on the character of the area and would not adversely affect the residential amenity of nearby residential dwellings, due to conditions attached to limit the working hours of the plant and the fact that this development will improve the dispersal of odour.
19. The proposal is in conformity with policies DD1, DD5 and EP7 of the adopted UDP and therefore approval is recommended.

RECOMMENDATION

20. It is recommended that permission is granted subject to the following conditions.
21. Reason for approval

This application is approved because it is considered that the proposed development would have no adverse affect on the character of the area and would not adversely affect the residential amenity of nearby residential dwellings.

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The proposal is therefore in conformity with policies DD1, DD5 and EP7 of the adopted UDP.

Conditions and/or reasons:

1. For the avoidance of doubt, this permission relates to drawing numbers 1749/01/RevA and 1749/02 and shall be implemented in strict accordance with these plans unless otherwise agreed in writing with the LPA.

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2. The premises, plant and machinery and associated works/activities shall be in operation only between the hours of 7:00am – 7:00pm on Mondays to Fridays inclusive and between the hours of 8:00am – 2:00pm on Saturdays and at no time on Sundays or Bank Holidays.