

Planning Committee: 11 January 2006

Item Number: 02

Application No: W 05 / 1560

Registration Date: 12/09/05

Town/Parish Council: Leamington Spa

Expiry Date: 07/11/05

Case Officer: Alan Coleman

01926 456535 planning_east@warwickdc.gov.uk

Elisabeth The Chef Ltd, St. Mary's Road, Leamington Spa, CV31 1QE
Installation of refrigeration plant and erection of an acoustic barrier fence FOR
Elisabeth the Chef Ltd

This application is being presented to Committee due to the number of objections received.

SUMMARY OF REPRESENTATIONS

Town Council: No objection.

WDC (Environmental Health): No objection.

British Waterways: No objection.

Inland Waterways Association: No objection.

WCC (Ecology): No objection, subject to protection of adjacent trees and hedgerows.

Neighbours: 17 letters of objection, including St. Mary's Residents Association, and a 27-name petition from the residents of Chesham Street, St. Mary's Road and Waterloo Street on grounds of harm to amenities from excessive levels of noise, vibration and other pollution, particularly at night and early morning generated from plant and equipment within the site and level of production being undertaken/facilitated by proposals and associated problems of traffic caused by increased demand for on-street parking in adjacent roads by employees in streets that already suffer from congestion.

RELEVANT POLICIES

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)

PLANNING HISTORY

The site has a detailed planning history with permission originally granted for 5 warehouses in 1968. Subsequently, there were various permissions for change of use and extensions have also been granted; in particular permission was granted for light industrial use in Units C, D and E in 1969 and 1973, and for bakery use of Units C and D in 1981. In connection with this use planning permission was granted for a flour silo some 10 metres in height adjacent to the vehicular access to the rear of the site.

In December 1995 planning permission was granted for the erection of extensions to provide an ambient box up area, despatch chill, store area and new docking shelters together with erection of a 3 metre high timber acoustic barrier, proper laying out and surfacing of the car parking area and loading/unloading area and associated landscaping (WDC Ref: W921277). This permission related to the use of the whole site as a bakery operation and was granted subject to a Section 106 Agreement which secured the erection of an acoustic barrier along the canal frontage of the site and restrictions on the manner in which the property is used.

Following extensive fire damage to the property planning permission was granted for re-building works on 19 August 1997 under the terms of application W961430. This is the extant permission for the use of the site as a bakery, which is also the subject of a Section 106 Agreement that requires:

- a) All fixed refrigeration or cooling plant which in the reasonable opinion of the Council increases the background noise level measured at the nearest noise sensitive facade shall be incorporated with an effective soundproof enclosure to be agreed in writing by the Council prior to the installation thereof such agreement not to be unreasonably withheld or delayed;
- b) Not to permit any lift truck or similar purpose built vehicle to be used on the property unless the same is being powered exclusively by electricity;
- c) Not to permit any refrigeration plant on stationary vehicles under the control of the owner or the tenant to be powered other than by electricity, subject to the following clause;
- d) To connect all refrigeration plant on stationary vehicles under the control of the owner or the tenant to the mains electricity supply present on the property within five minutes of the vehicle upon which such is located having become stationary;
- e) Not to use or permit the use on the property of any outdoor loudspeaker system;
- f) Not to move or permit the movement of any wheeled racks of metal trays on the property other than within buildings;
- g) Not to permit any outdoor storage of materials upon the property other than waste (as defined in the Environmental Protection Act 1990) awaiting imminent removal and pallets or other delivery containers awaiting imminent removal;
- h) Not to provide any waste materials about the property other than in containers made of plastic with rubber wheels.

There is also a requirement to ensure that the acoustic barrier stretching the full length of the boundary of the site with the canal is maintained in good and substantial repair and condition.

In respect to clause a) above the baseline for enforcing this aspect of the Section 106 Agreement is 45dBa, as set out in the report to the Plans Sub-Committee at its meeting on 23 June 1998 regarding approval of amendments to this permission. Members had previously deferred approval of proposed amendments to the approved scheme to enable further noise assessments to be carried out by the Environmental Health Officer in conjunction with Elizabeth the Chef's noise

consultant. In this respect Members accepted the recommendation of the Environmental Health Officer that these levels are acceptable in this type of location.

The proposed amendments included the provision of blast freezer facilities within the envelope of the rebuilt premises rather than within a freestanding external freezer unit, for which permission was granted in 1996 under the terms of W960005. These amendments were granted subject to a separate Section 106 Agreement revoking the permission for the freestanding blast freezer unit.

Under the terms of Condition 4 of the extant permission for the use of the site as a bakery the siting of materials, plant and equipment on any open area of the site is prohibited. The reason for this condition is '*To protect and enhance the amenities of the area.*' The siting of the refrigeration plant is therefore in direct breach of this condition.

The terms of this permission and the provisions of this 'Agreement are therefore wholly pertinent to this application in this respect and in relation to permissible noise levels.

KEY ISSUES

The Site and its Location

The site is located in the Sydenham Industrial estate, which is allocated for employment purposes within the meaning of Class B of the Town and Country Planning (Use Classes) Order 1987 in the adopted Warwick District Local Plan 1995 and Revised Deposit Version. The site has a frontage onto St. Mary's Road adjacent to the point at which it crosses the Grand Union Canal, which forms the rear boundary of the site. An acoustic boundary fence separates the site from the canal, which is screened by mature planting along the canalside. To the north of the canal are residential properties whilst to the east the site is adjoined by other industrial premises.

The premises are single storey and are set back from the road frontage with a staggered facade to reflect the alignment of the road at this point. Vehicular access to the site is from St. Mary's Road via a single width driveway that runs alongside the eastern boundary of the site to a service yard at the rear of the premises.

Details of the Development

There are 5 refrigeration units located around the silo base, which are contained within an acoustic barrier fence on the rear elevation of the premises adjacent to the service yard entrance. In support of the application the applicant has submitted the following statement:

"Since 1997, the business at St. Mary's Road has grown considerably. From this site we supply some of the major supermarkets including: - Morrisons, Somerfield, ASDA, Boots and Sainsbury's, with a wide range of desserts and bakery products.

This year we have become the dessert category champion for J Sainsbury's, and have won considerable business as a result. We have built a very good relationship with Sainsbury's and are in the process of developing new products with them. In the

last 12 months we have launched 6" egg custards for Both ASDA and Sainsbury's, which is a major business line to us.

Our case count has gone up from 35,800 to 63,900 cases of product per week this year alone.

We employ approximately 260 staff at this site, most of whom come from the local area.

As we have a lease running on the site we have to utilize it as effectively as possible..."

In light of the above, the reason given for the installation of the refrigeration plant is that they are required to serve chilled food areas: - goods in chiller, goods in freezer, goods in store room and main bakery cooling.

Assessment

There is no objection from the Head of Environmental Health in terms of noise emanating from the refrigeration plant. Notwithstanding the provisions of condition 4 of application W961430, I also consider the development is acceptable in terms of siting, design, appearance and the layout of the site, given their close association with the existing silo.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT

INFORMATIVES

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of noise and disturbance which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.
