

**PLANNING
COMMITTEE**

19th June 2019

Planning Application 18/01543/FUL

Retrospective change of use to B1c light industrial use and B2 general industrial use.

Units 17, 19, 21, 23, 27 & 29, Hunt End Industrial Estate, Dunlop Road, Hunt End, Redditch, Worcestershire, B97 5XP

**Applicant: STAR BRANDS LIMITED
Ward: Astwood Bank And Feckenham Ward**

(see additional papers for site plan)

The author of this report is Simon Jones, Planning Officer (DM), who can be contacted on Tel: 01527 548211 Email: simon.jones@bromsgroveandredditch.gov.uk for more information.

Site Description

Hunt End Industrial Estate lies toward the southern edge of the town and comprises a group of approximately 23 units accessed off Dunlop Road via Windmill Drive. The industrial estate backs onto Enfield Road to the south east, and is screened by a 10 metre wide by 230 metre long belt of mature deciduous trees from the residential properties on the opposite side of the road. To the south and north west, the estate is surrounded by open space, beyond which, at approximately 100 metres distance, are further residential properties.

The application relates to 6 of the units on the east side of Dunlop Road and the intervening yards which serve them. The yards on their south eastern side are presently enclosed by palisade fencing separating them from the tree belt and Enfield Road beyond.

Each of the units comprises 906.01 sq. m. of floor space with each unit served by approximately 20 parking spaces. Access is also available to communal bays serving the industrial estate on Dunlop Road itself, of which there are a further 60/70 parking spaces.

The industrial estate is identified in the Borough of Redditch Local Plan No.4 (BoRLP) as an employment area to which local plan Policy 24 applies.

Proposal Description

Full planning permission is sought to regularise a change of use of 6 units and two intervening services yards on Hunt End Industrial Estate to allow continued use for the purposes of the manufacture and distribution of household cleaning products, and the potential for other uses with Class B1c (Light industrial) uses on the basis of a 24/7 operation.

**PLANNING
COMMITTEE**

10th June 2019

Star Brands Limited employs approximately 92 employees plus temporary labour depending upon demand.

Star Brands Limited produces cleaning products. This process involves the mixing of liquids and filling this into bottles. The filled bottles are then packed onto pallets. The cleaning products are then taken from the premises on a trailer before going to a third party store/warehouse located off site. Units 17-23 which adjoin one another and are linked internally essentially operate as one industrial unit.

Relevant Policies :

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development

Policy 20: Transport Requirements for New Development

Policy 24: Development within Primarily Employment Areas

Policy 39: Built Environment

Policy 40: High Quality Design and Safer Communities

Others

NPPF National Planning Policy Framework (2019)

Relevant Planning History

| | | | | |
|------------------------------------|--|---------|------------|---|
| NT/37/80 Original permission | Industrial and warehouse Units, car parking, servicing areas and associated landscaping | GRANTED | 26.05.1982 | Condition E limiting use to B1 and B8 but no hours of working condition |
| 1996/002/FUL Unit 21 | Change Of Use To Class B2 | GRANTED | 29.02.1996 | Restricted to manufacturing of ovens and no other uses within B2 Personal Condition with requirement to return use of unit to B1 on cessation of use |
| 1991/456/FUL Unit 22 | Change Of Use To General Engineering (B2 Use) | GRANTED | 25.11.1991 | Noise level condition Personal condition |
| 1998/383/FUL Unit 22 | Change Of Use To Offices And Demonstration Unit (B2 Use) | GRANTED | 30.09.1998 | Noise level condition Personal condition |

PLANNING COMMITTEE

10th June 2019

Consultations

WRS - Noise

Noise: The submitted noise assessment appears satisfactory and indicates that with adherence to the recommended Noise Management Plan and the recommended noise mitigation measures to the external extraction unit the impact at the nearest noise sensitive receptor(s) should not be adverse.

I would recommend that both the adherence to the Noise Management Plan and the mitigation measures for the external extraction unit are conditioned.

Highways Redditch

Worcestershire County Council acting in its role as the Highway Authority has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Transport Planning and Development Management Team Leader on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection.

The justification for this decision is provided below.

I have no highway objections to the retrospective change of use to B1c light industrial use, B8 storage, and distribution and B2 general industrial use.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted and consultation responses from third parties the Highway Authority concludes that there would not be a unacceptable highways impact and therefore there are no justifiable grounds on which an objection could be maintained.

The Highway Authority therefore submits a response of no objection.

Public Consultation Response

32 letters of consultation were sent to local residents
14 representations raising objection were received which, in summary, identified the following issues:

Noise / Hours of Working

The current unauthorised 24/7 use is generating noise from staff shouting, forklift trucks, loading and unloading, clattering and banging particularly late in the evening up till 1am and then in the morning around 5:45am waking local residents. Hours of working should be limited and not permit night time working. Hours of working have been controlled historically through the imposition of conditions. The houses on Enfield Road were there before the industrial estate was built.

PLANNING COMMITTEE

10th June 2019

Odour

Whilst walking through the woods at the rear of the units there is a strong chemical smell.

Traffic / Highway Safety

The entrance to the estate is not conducive to safe use by large vehicles. An increase in traffic would compromise highway safety and an intensification in vehicle movements cause greater noise, disturbance and inconvenience to other highway users.

Light Industrial Use

The use of the units should be limited to light industrial use only. B2 uses are not appropriate in a residential area.

Assessment of Proposal

Principle of Development

The site lies within a designated employment area identified within the Borough of Redditch Local Plan No.4 (BoRLP). An examination of the planning history for the wider estate reveals a mix of employment uses. The historic permissions for B2 activities on the industrial estate were notably limited by conditions to the operators.

B1c uses can be 'any' industrial process, subject to its being a *"use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."* This is considered to be an uncontentious element of the proposal.

The original planning permission NT/39/80 granted permission for industrial and warehouse use with a condition limiting the use to B1c (Light industrial use) and B8 (storage and distribution use).

BoRLP Policy 1 states that *"When considering development proposals the Borough Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

Planning applications that accord with the policies in this Local Plan (and, where relevant, with polices in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Borough Council will grant permission unless material considerations indicate otherwise - taking into account whether:

**PLANNING
COMMITTEE**

10th June 2019

- *any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *specific policies in that Framework indicate that development should be restricted.”*

With the exception of safeguarding designated employment land for employment purposes, with which the development proposal accords, there is no specific local plan policy regarding changes of use within the industrial use classes. The test to be applied is therefore that set out in paragraph 11 d)ii. of the Framework.

Residential Amenity

The manufacture of cleaning products places the current use within the B2 (General Industrial) category, but it is the outdoor activity, particularly during unsociable hours, rather than the manufacturing process, which has given rise to the complaints about the unauthorised use and drew its attention to the Local Planning Authority.

In considering this issue, regard needs to be had to the planning history of the industrial estate.

The original planning permission relating to the development of the industrial estate NT/39/80 refers to the development of industrial and warehouse units. Condition E attached to the permission limits the uses to B1c and B8 use associated with the Town and Country Planning (Use Classes) Order, 1972 (UCO 1972). However, the condition does not make specific reference to subsequent legislation that re-enacts or revokes the UCO 1972. On this basis, it could be reasonably concluded that once the 1972 UCO was superseded, that the authorised use of the site was just for industrial and warehouse development as per the approved description of development. Nonetheless, the absence of any explicit condition limiting hours of use means that a B8 (storage and distribution) use could operate from all but Unit 21 within the application site on a 24/7 basis. In that sense, an application which provides an opportunity to condition external operations provides an opportunity for betterment.

Complaints received by Worcestershire Regulatory Services prior to the submission of the application largely related to the alleged impact of noise associated with external activities, taking place within the yard, following the introduction of extended operating hours in respect of use of Units 17-23 in April 2018 to include night-time working. However, the original planning permission NT/39/80 does not restrict the hours of use of the units.

Star Brands Limited has already engaged with officers of Worcestershire Regulatory Services since April 2018 to resolve noise issues. Since this time, the business is now using new forklift trucks with white noise beepers. A condition is recommended to ensure that this method of noise mitigation is retained.

**PLANNING
COMMITTEE**

10th June 2019

The applicant's noise consultant has suggested the erection of an acoustic barrier to one of the southern most of the two yards, to run from the corner of Units 23 to unit 25 at the south eastern end of the yard Your officers consider a similar fence should be erected between Units 15 and 17.

Whilst the acoustic fence would be 5 metres high, this would not be as high as the industrial buildings and would also benefit from the screening afforded by the 10 metre wide deciduous belt of trees (even in the winter) which line the north west side of Enfield Road such that it would not have a visually intrusive or over-bearing impact upon the residential properties on the opposite south eastern side of Enfield Road, or result in loss of sunlight to those properties, whose front windows are situated at approximately 20 metres distance from the proposed location of the fence.

Your officers consider that the potential for noise impacts of the proposed use could be mitigated by the imposition of conditions and acoustic fencing to the service yards. A number of conditions are proposed to address this.

Traffic / Highway Safety

BoRLP Policy 20(iii) states that *“all proposals should incorporate safe and convenient access arrangements in their design for all potential users (including pedestrians, cyclists, emergency services and waste collection vehicles).”*

The Highway Authority have raised no objection to the proposal. The withdrawal of the part of the proposal seeking the potential to operate a B8 use across the whole site, would avoid the risk of an intensification of vehicle movements if all the units were put to that purpose.

The business operated by the applicant entails an element of storage and distribution but as an ancillary component of the B2 use. It would not be possible to change the use from B2 back to B8 without the benefit of a subsequent planning permission as the floor area of the units exceed 500sqm.

There is no inherent design deficiency in the current access or vehicular visibility.

Conclusion

It is considered that with the imposition of conditions the risk of noise nuisance could be satisfactorily mitigated to the extent that the use could co-exist with the surrounding residential use without resulting in harm to the degree which would justify refusal. Consequently the adverse impacts in terms of noise would not significantly and demonstrably outweigh the benefits of safeguarding an employment use supporting 90 jobs when assessed against the policies in this Framework taken as a whole. Accordingly, it is recommend that planning permission be granted.

**PLANNING
COMMITTEE**

10th June 2019

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be **GRANTED** subject to the following conditions:

Conditions:

A standard 3 year time limit condition for implementation is not required in this case because the application is retrospective.

1. PLANS

The development hereby approved shall be carried out in accordance with the following plans and drawings:

Site Location Plan

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

2. LIMITATION ON USE

With the exception of any uses falling within Class B1c of the Town and Country Planning Use Classes order 1987 (as amended), the use of the units shall be limited to the manufacture, ancillary storage and distribution of cleaning products and for no other purpose falling within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any order revoking and re-enacting that Order (with or without modification).

REASON: In the interests of residential amenity.

3. NOISE MITIGATION

Within 1 month of the date of this permission, details of an acoustic fence of at least 5m high with a surface density of at least 12kg/m² and installed without any gaps / holes to the sides and base, to enclose the south eastern end of each yard between Units 23 and 25 and Units 15 and 17 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 3 months of the date of approval of those details.

REASON: In the interests of residential amenity.

4. HOURS OF WORKING

There shall be no working on site between the hours of 2:00 pm on Saturdays and 7:30pm on Sundays and no working on site on Bank Holidays. There shall be no outdoor working, loading or unloading, and operation of fork lift trucks between the hours of 11:00pm and 7:00am the following day. When there is no working on site, the gates to the yards shall be kept closed.

**PLANNING
COMMITTEE**

10th June 2019

REASON: In the interests of residential amenity.

5. FORKLIFT TRUCKS

All fork lift trucks operated in connection with the use hereby permitted shall be fitted with “white noise” reversing sensors which shall be retained and maintained in that form for the lifetime of the use.

REASON: In the interests of residential amenity.

6. MAINTENANCE OF HARDSTANDING

Within 1 month of the date of this permission, any defects or potholes within the yard areas shall be repaired with the same material as that from which the yard surface is composed to create a level surface and details of an ongoing maintenance regime shall be submitted to the Local Planning Authority. Maintenance of those areas shall thereafter be carried out in accordance with the approved maintenance regime.

REASON: To mitigate noise nuisance in the interests of residential amenity.

Procedural matters

This application is being reported to the Planning Committee because two (or more) objections have been received.