

**BROMSGROVE DISTRICT COUNCIL**

**VIRTUAL MEETING OF THE PLANNING COMMITTEE**

**MONDAY, 24TH AUGUST 2020, AT 6.03 P.M.**

PRESENT: Councillors R. J. Deeming (Chairman, in the Chair during Minute No. 24/20), P. J. Whittaker (Vice-Chairman, in the Chair during Minute No's 20/20 to 23/20), S. J. Baxter, A. J. B. Beaumont, S. P. Douglas, A. B. L. English, M. Glass, H. J. Jones, J. E. King, P. M. McDonald and P.L. Thomas

Officers: Ms. C. Flanagan, Mr. D. M. Birch, Mr. S. Jones, Ms. K. Hanchett, Worcestershire Highways Authority, Mrs. P. Ross and Mrs S. Sellers

20/20 **APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Apologies for absence were received from Councillor S. G. Hession and Councillor R. J. Deeming. Councillor H. J. Jones was in attendance as substitute for Councillor S. G. Hession.

It was noted that Councillor R. J. Deeming initially gave his apologies due to technical issues. However, these were resolved and Councillor Deeming joined the meeting for Agenda Items 5 and 6.

21/20 **DECLARATIONS OF INTEREST**

Councillor P. M. McDonald declared in relation to Agenda Item 5 (Minute No 24/20), that he had a predetermined view on the matter and would be speaking on this item as Ward Councillor under the Council's public speaking rules.

22/20 **MINUTES**

The Minutes of the Planning Committee meeting held on 3<sup>rd</sup> August 2020, were received.

**RESOLVED** that the minutes of the Planning Committee meeting held on 3<sup>rd</sup> August 2020, be approved as a correct record.

23/20 **UPDATES TO PLANNING APPLICATIONS REPORTED AT THE MEETING (TO BE CIRCULATED PRIOR TO THE START OF THE MEETING)**

The Vice-Chairman announced that an Update had been circulated to all Planning Committee Members, however, the Committee Update was not circulated until late afternoon, therefore not all Planning Committee

Members may have had the opportunity to read the Committee Update report. It was agreed by Members that officers would cover the contents of the Committee Update report during the officer presentation.

24/20

**20/00479/FUL - PROPOSED CHANGE OF USE FROM B1 TO B8 WITH DETACHED COLD STORAGE BUILDING TO REAR AND ERECTION OF THREE METRE HIGH TIMBER FENCE PANELS TO OUTER PERIMETER OF PRIVATE SERVICE ROAD TO, AND ENCLOSING REAR YARD/PARKING AREA - 30 THE AVENUE, RUBERY, BIRMINGHAM, WORCESTERSHIRE, B45 9AL - ADAM FOOD SERVICES LIMITED**

Officers presented the report and explained that planning permission was being sought for the proposed change of Use from B1 to B8 with detached cold storage building to the rear and the erection of three metre high timber fence panels to the outer perimeter of the private service road, to and enclosing the rear yard/parking area.

Officers provided a detailed presentation of the application.

At the request of the Committee, officers provided details of the Committee Update. The applicant had made a correction to the proposed hours of working. The applicant had explained that there had been an error in the completion of their application and that they were not seeking to work on Sundays / Bank Holidays.

Officers further informed Members of the revised Recommendation detailed in the Committee Update report.

Further representations had been received making allegations of working outside the hours proposed in the application, for example deliveries being made as early as 6:30am.

In response to the applicant's error in completing the application form removing Sunday/Bank Holiday working from the proposal, the officer's substantive view was that the application should be still be refused.

At the invitation of the Chairman, Mrs. J. Horton and Ms. K. Knight, addressed the Committee in objection to the Application. Mr. M. Nathan, the Applicant's Agent and Mr. W. Muhammed, the Applicant addressed the Committee. Councillor P. M. McDonald, in whose Ward the Site was located also addressed the Committee in objection to the application.

In response to questions from Members with regard to noise complaints, Mr. S. Williams, Worcestershire Regulatory Services (WRS) informed Members that WRS had received a number of complaints regarding noise nuisance, the last complaint received was on 20th August 2020, in respect of the number and frequency of HGV vehicles arriving per hour at the premises. No enforcement action had been taken in respect of noise complaints.

Officers responded to further questions from Members regarding noise mitigation measures in order to limit the amount of noise from the premises and in doing so clarified that; as detailed in the Sanctuary Acoustics report:

- An acoustic fence would mitigate noise; however, the application did not detail the acoustic specification of the fence proposed.
- The refrigeration unit fans were fixed halfway up the cold store wall. Noise would be reduced, for residents in that vicinity, if the unit fans were fitted lower towards ground level.
- Noise from forklift trucks, when reversing, could be mitigated if white noise reversing beepers were fitted, as these were less intrusive.

In response to Members, Mr. S. Williams, WRS, explained the standard regulatory requirements for acoustic fencing.

Some Members commented that the application presented a bit of a quandary, as there was a need to encourage economic development in the district. The business was a successful business, but possibly in the wrong area now. Mr. S. Williams, WRS had confirmed that no noise complaints had been upheld.

Members questioned what benefits would be achieved by putting in mitigation measures. On balance, some Members were of the opinion that the proposed change of use from B1 to B8 was not appropriate in this residential area.

Officers clarified questions with regard to where deliveries were made and in doing so, commented that the main service / delivery hatch was located to the front of the building adjacent to and north of the gated access to the rear yard.

Some Members expressed their concerns and commented that there was a real conflict, you had a very successful business on an established industrial estate, which had not set out to annoy residents, however, it has annoyed residents. Members also noted that the supporting statement claimed that one frozen food delivery occurred per day, however, residents had stated that there were many lorries arriving.

Officers informed the Committee that as detailed in the Design Access Statement 'The site received one/two frozen lorry deliveries a day between 08.00 – 11.00am only. Once unloaded Adams employees then despatched orders to customers across the United Kingdom'.

Members further debated if there could there be a solution to mitigate / reduce noise nuisance.

With the agreement of the Chairman, officers informed the Committee that they had given some considerable thought as to whether the use could be made more acceptable with the imposition of conditions.

Other than controlling the general hours of use, any other conditions which sought to try and limit the number of deliveries, the hours when deliveries were received, the frequency of deliveries or the requirement for engines to be idled; would be challenging in terms of monitoring compliance. This was not a resource issue for the Council, in his professional opinion, any local planning authority would struggle to enforce such conditions.

There had to be a reasonable expectation from the public that any such conditions would be enforced.

Officers could verify compliance with regard to on site mitigation measures, in respect of the acoustic fencing, the unit on the cold store being lowered and the opening and closing hours of the business; but not the monitoring of deliveries, it would not be practical to have ongoing monitoring of deliveries though out the day. The Council's Legal Advisor also reiterated this.

Officers responded to further questions from Members regarding deliveries. The Chairman allowed Councillor P. M. McDonald to ask a question regarding this.

Having considered all of the information provided and with some Members stating that the proposal for B8 use was not appropriate in this area; Members were minded to refuse the Application.

**RESOLVED** that permission be refused, as detailed on page 1 of the Committee Update report as follows:

Amended reason (omitting reference to working on Sundays and Bank Holidays)

1. Notwithstanding the proposed mitigation measures, including revised start times the proposed B8 use would; by reason of its operational parameters, the proximity of its service yard, cold store, and associated access, to neighbouring dwellings and their associated private gardens in Richmond Road and Barrington Road; constitute an incompatible use and have a demonstrably adverse impact upon the residential amenity enjoyed by the occupiers of those properties in terms of external noise and fumes arising from vehicles and refrigeration units and associated disturbance from loading and unloading. Accordingly, the proposal is contrary to Policies BDP1, BDP14 and BDP19 of the Bromsgrove District Plan.

The meeting closed at 7.23 p.m.

Chairman