

BABERGH DISTRICT COUNCIL

FROM: Planning

REPORT NUMBER: **K148**

TO: DEVELOPMENT COMMITTEE

DATE OF MEETING: 24 November 2010

PROPOSED NON MATERIAL AMENDMENT – AMENDMENTS TO EXTENSION C, CHANGE OF USE OF ‘BOTTLE BLOW MOULDING’ BUILDING TO PROVIDE COLD STORAGE FACILITY (EFFECTIVELY SWITCHING THE AREAS OF USE SHOWN ON THE APPROVED PLANS); AMENDMENT TO NUMBER AND POSITION OF OPENINGS IN EASTERN ELEVATION). – COPELLA FRUIT JUICES LTD, BRICK KILN FARM, BRICK KILN HILL POLSTEAD

1. PURPOSE OF REPORT

- 1.1 On 25 January 2008, Development Committee resolved to grant planning permission for the “Erection of extensions to existing production premises, associated new plant, landscaping and perimeter fencing (Existing farm buildings to be demolished” (B/07/01590/FUL).
- 1.2 The non material amendment (described above) is proposed by Boxford (Suffolk) Fruit Farms, who farm the orchards that surround the application site from their base at Hill Farm and own the freehold to this land and the application site.

2. RECOMMENDATIONS

- 2.1 That the proposed non material amendment for Planning Permission B/07/01590/FUL; to use of ‘bottle blow moulding’ building to provide cold storage facility at Copella Fruit Juices Ltd, Brick Kiln Farm, Brick Kiln Hill Polstead be approved.

The Committee is able to resolve this matter.

3. FINANCIAL IMPLICATIONS

There are no financial implications rising directly from this report.

4. RISK MANAGEMENT

There are no significant risks arising directly from this report.

5. EQUALITY AND DIVERSITY IMPACT

There are no Equality and Diversity implications arising directly from this report.

6. KEY INFORMATION

- 6.1 The proposed changes have been the subject of consultation with the Parish Council, neighbouring Parish Councils, Local Highway Authority and neighbouring properties. The following responses have been received:

- PC (Polstead) – views awaited
- Neighbouring PC (Stoke by Nayland):- would like some more information about the move to implement in phases and whether the long term plan (as agreed in 2007/08) is to be achieved. The Council did not adhere to the view that the changes were “non material” as the plans suggest the addition of chillers. These will create a level of noise which has not been considered. Also although changes have been suggested for conditions 07, 08, and 09 the Parish Council feels that condition 06 will also need to be reviewed.
- Neighbouring PC – (Leavenheath):-would not object to the amendment providing the planning conditions already in place for the whole plan remain in force.
- Neighbouring PCs (Boxford and Assington) – views awaited
- LHA – does not wish to restrict the grant of the amendment.
- Dedham Vale Society – surprised that this represents a non material amendment as an examination of the documents suggests that it is in fact a further expansion of premises which we have already argued are extremely intrusive and beyond anything that should be permitted in an AONB (Area of Outstanding Natural Beauty). We continue to be greatly concerned over the apparent ability of the concern to expand almost at will. There does not appear to be any exercise over “Development Control”
- Neighbour (Peyton Hall) - We object to this latest change in the planning application 01590: Due to our concerns in NOISE levels, we live directly east to this proposed development, and changing the bottle-blowing to the cold store area will definitely be more noisy. With a proposed LOADING BAY TO THE EAST this is a serious problem for us, especially as the factory is open 24 hours and day 7 days a week, the fork lift trucks that are in use, with their reversing alarm noise are pretty bad, but if they are in and out from this eastern side it will become unbearable. The flow of vehicle activity was (as we were told and understood) were suppose to flow west from the filling hall, does this new proposal mean that vehicle's will now flow around the new proposed redevelopment of the old Boxford Fruit Farm buildings? Please take our concerns seriously, as the next letter will be asking for more lights and that means more light pollution.

Assessment

- 6.2 S96a of the Town and Country Planning Act 1990 (as amended) sets out the following when considering an application for a non material amendment: -

“In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted”.

- 6.3 There is no clear definition of what can or cannot be considered as a non material amendment as each case should be judged on its merits but to assist Members the tests that are normally applied when considering a proposal for an amendment are:

- If any proposed amendments are so slight (de minimis) and do not amount to a 'material' change from the approved plan, it is likely that the proposed alterations could be considered to be lawful within the scope of the existing planning permission
- The question as to whether the development now proposed is the same development as that granted permission
- Consideration of whether the description for the development would need to be changed as a result of the amendment, and,
- What external impact the changes now proposed might have – i.e. would the proposed change be contrary to any planning policy of the Council?

6.4 Each request will be considered on its merits having regard to all relevant circumstances.

6.5 In this case the proposed amendments would not substantially alter the development from that granted. The proposed amendments relate to 'Extension C' at the northern end of the site (currently occupied by Boxford Suffolk Farms). The eastern part of the existing buildings would be demolished and replaced with a building with the same external form and dimensions as that currently consented. Rather than being used for bottle blow moulding this building would provide cold storage facilities. This is in essence a replacement for the 'dry goods warehouse' that comprised the western half of the approved 'Extension C'. The change to the eastern elevation would see the insertion of a loading bay door central to this elevation.

7. **APPENDICES**

None.

8. **BACKGROUND PAPERS**

Relevant papers of Planning File B/07/01590/FUL.

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