

**Planning and Rights of Way Panel 13<sup>th</sup> July 2021**  
**Planning Application Report of the Head of Planning & Economic Development**

<b>Application address:</b> 230 - 234 Winchester Road, Southampton			
<b>Proposed development:</b> Siting of two cold storage units for use in connection with the sale of food goods from The Range - Retrospective.			
<b>Application number:</b>	20/01317/FUL	<b>Application type:</b>	Full
<b>Case officer:</b>	Mark Taylor	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	25 <sup>th</sup> November 2020	<b>Ward:</b>	Bassett
<b>Reason for Panel Referral:</b>	Request by Ward Member	<b>Ward Councillors:</b>	Cllr J Hannides Cllr B Harris Cllr L Harris
<b>Referred to Panel by:</b>	Cllr J Hannides	<b>Reason:</b>	Neighbours continue to experience vibration and noise
<b>Applicant:</b> CDS (Superstores International) Ltd		<b>Agent:</b> MWA	

<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2019). Policies CS13 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies SDP1, SDP5, SDP7, SDP9, SDP16 of the City of Southampton Local Plan Review (Amended 2015).

**Appendix attached**

1	Development Plan Policies	2	Relevant Planning History
3	Acoustic Report - Dragonfly		

**Recommendation in Full****Conditionally approve****1. The site and its context**

- 1.1 The red line for the application site relates to a small area of the compound area serving The Range store accessed via Winchester Road. The building is shared with the freezer food company 'Iceland'.
- 1.2 The Compound area is located directly to the west of the main store on the north boundary of the site. It is enclosed by a timber clad security fence in excess of 3m in height.
- 1.3 The Range site incorporates a sizeable parking area to the south western side of the site. The Compound is located centrally within the site adjacent to the north boundary.
- 1.4 Residential properties back on to the north southwest, west, and south east boundaries of the site. To the south is a petrol filling station and to the northeast commercial premises known as South Coast Storage and Packaging.

**2. Proposal**

- 2.1 The application seeks the retention of two containers within the site's storage compound.
- 2.2 The containers are refrigeration units that provide cold storage for the frozen goods available within The Range store.
- 2.3 The units are 2.89 metres in height, 2.44 metres wide, the northern most unit measures 12.1 metres in length, the southern unit 6.1 metres. The refrigeration equipment is located on the rear of the containers adjacent to the to western boundary of the compound.
- 2.4 The Containers are cream in colour (RAL CODE 1015)

**3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the

City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

- 3.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

#### **4. Relevant Planning History**

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.

#### **5. Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **two representations** have been received from surrounding residents. The following is a summary of the points raised:

- 5.2 **The vibration and humming noise coming from these refrigerator units can be felt and heard all night. It prevents windows being left open at night. During the day the humming noise can be heard with our garden. Attempts have been made by The Range to muffle the noise that the units make. However there is still constant humming and vibration which fluctuates through the day and night.**

#### **Officer Response**

The concerns regarding noise and vibration are noted and form part of the material considerations for the application below. In summary, it was noted that the compressor units associated with the containers did result in noise emissions. It was advised that acoustic louvres would mitigate this impact. These acoustic louvres have now been fitted to the containers. A further acoustic report measured the noise impact of the containers following the installation of the louvres. The target noise levels set of by the Council's Environmental Health officers were achieved. Whilst some nuisance may remain this is considered to fall within acceptable limits.

5.3 **The delivery lorries arrive early morning and park up with their generators running. They start unloading using forklifts before 7.30am.**

**Officer Response**

The proposal does not include any variation to the permitted delivery times. Deliveries and servicing of the premises is restricted to the hours of 08:30hrs to 17:00hrs Monday to Friday. The store has been reminded of these restrictions and the Council has planning enforcement powers, which may be used if the issue persists.

**Consultation Responses**

5.4

<b>Consultee</b>	<b>Comments</b>
Environmental Health	<p>Following the installation of acoustic louvres to the containers, and the sound level monitoring outlined in the Acoustic report referenced DC3425-R2 Environmental Health Advised that:</p> <p><i>'The target noise levels have been achieved.'</i></p> <p>As such Environmental Health raise no objection to the proposal.</p>
Cllr Beryl Harris	<p>Since the acoustic louvers have been fitted to the units to reduce the noise levels and Environmental Health report states that the target for noise reduction has been achieved and they now consider that the louvres are effective, their objection has now been removed . I have personally not received any additional complaints</p>
Cllr John Hannides	<p>The proposal is in my view inappropriate and unsuitable due to their close proximity to several neighbouring residential properties. Residents have complained about excessive noise and vibration created by the generators in situ. It's already having a serious detrimental impact on the neighbours and their quality of life.</p>

## 6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- The principle of development;
- Design and effect on character;
- Residential amenity;

### 6.2 Principle of Development

6.2.1 The proposal seeks to retain two refrigerated storage containers within the existing compound associated with The Range store. The proposed use of the site is established and the containers would be ancillary to the use of the store. As such, the principle of development can be supported subject to further consideration regarding the impact to the character of the area and residential amenity.

6.2.2 Saved Policy SDP1(i) of the City of Southampton Local Plan Review states, amongst other things, that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.

6.2.3 Saved Policy SDP16 of the City of Southampton Local Plan Review states, *'noise-generating development will not be permitted if it would cause an unacceptable level of noise impact;'*

6.2.4 Core Strategy Policy CS13 requires development to *'respond positively and integrate with its local surroundings'* and *'impact positively on health, safety and amenity of the city and its citizens'*.

6.2.5 It is noted that the application is retrospective. The National Planning Policy Framework says that enforcement action is discretionary, and that local planning authorities should act proportionately in responding to suspected breaches of planning control. Section 73A of the Town and County Planning Act 1990 specifically provides that a granting of planning permission may relate to development carried out before the date of the application' (para 6). Furthermore, an application cannot be refused on grounds that it is retrospective. When considering the development regard has to be had to Government guidance and the policies contained within the Development Plan.

6.2.6 However, the retrospective nature of the development has allowed the mitigation measures, seeking to limit the noise emissions, to be installed. As such the Council does not have to rely upon predicted results from the proposed mitigation. Following the installation of acoustic louvres noise levels were measured to assess the effectiveness of the mitigation. As

assessed below by the Council's Environmental Health Officers, the target noise levels were achieved. As such, the principle of the cold storage units for this commercial building is acceptable.

#### Design and effect on character

- 6.3.1 The proposal will maintain the existing commercial use of the premises. The proposal will not provide additional retail floor space neither will the containers be accessible by the public.
- 6.3.2 The containers are set into the site, within an existing storage /delivery compound and away from the public realm. Given the height of the timber clad boundary treatment of the compound the storage containers will not be readily visible to the public. A condition can be imposed that prevents storage of goods and materials on top of the containers. A further condition will require the units to be removed when no longer in use. As such the proposal preserves the character of the site and the surrounding area.

#### 6.4 Residential amenity

- 6.4.1 The containers are located near to the northern boundary of the site that abuts the rear boundary treatments of the residential properties of Norham Avenue. The containers are sited approximately 16m from the habitable accommodation within those properties.
- 6.4.2 The containers are of single storey height, with a flat roof. As such given the level of separation from the residential dwelling and single storey height, the containers do not give rise to any material harm to the natural light or outlook currently enjoyed by the occupants of those dwellings.
- 6.4.3 The containers incorporate refrigerated units which have the potential for noise emission from the units. It is noted that the containers are located within an existing storage and delivery compound located adjacent to the customer car parking. Vehicles and people can be expected to be operating/working within those areas resulting in some noise from within it however such noise would not be expected through the night. The cold storage containers will be required to operate through the night and noise and vibration issues can be a major nuisance in urban areas. Excessive levels of noise and vibration can cause stress and other related problems affecting people's health and quality of life.
- 6.4.4 Saved Policy SDP 16 of the City of Southampton Local Plan Review states,

*'Applicants may be required to submit a noise impact report to assess the effect of the proposed development or existing noise source(s) upon the existing or proposed noise-sensitive development prior to the*

*determination of a planning application.'*

- 6.4.5 The application did include a Noise impact assessment (referenced DC3425-R1). The survey concluded that without any mitigation the units resulted in noise emissions of, which exceed acceptable noise parameters (35dB/30dB) by 2 decibels (37dB)
- 6.4.6 The noise impact assessment found that the source of the noise was the compressor associated with the refrigeration units. The report advised that the fitting of acoustic louvres would mitigate this noise impact and bring emissions down to acceptable levels (35dB/30dB).
- 6.4.7 As the proposal sought retrospective consent for the retention of the units, rather than secure the mitigation through a planning condition to be fitted/reviewed after consent had been awarded, it was considered appropriate to implement the suggested mitigation prior to the award of permission so that a further noise survey could be undertaken post installation. This would allow for a more accurate assessment of the effectiveness of the acoustic louvres.
- 6.4.8 With significant input from the Councils Environmental Health Team the Acoustic Louvres were fitted to the containers on the 21 January 2021.
- 6.4.9 A further noise survey (referenced was undertaken from the 3rd to the 4th February 2021). This survey is included within **Appendix 3**. The survey results demonstrated that the acoustic louvres reduced noise levels associated with the containers.
- 6.4.10 Environmental Health Officers had previously advised that noise levels of 35/30 dB LAeq,T Daytime/ Night-time would be acceptable. The survey methodology has been reviewed by the Council's Environmental Health Team and they have confirmed that the target noise levels have been achieved within this margin following the fitting of the acoustic louvres.

Survey Results

Location	Description	External Noise Levels dB(A)	Internal noise Levels (Windows Open) dB(A)
1	Sound level meter positioned 1.5m from the ground and 1m from rear façade at no.19 Norham Avenue.	35.4	20.4
2	Sound level meter positioned 1.5m from the ground and 1m from rear façade (bedroom	33.2	18.2

	window) at no.17 Norham Avenue.		
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6.4.11 As such, whilst the compressors do make a noise, and this noise may be audible from neighbouring residential properties, following the installation of the acoustic louvres the noise emissions have been significantly reduced to what are now considered to be acceptable noise levels to avoid significant noise and disturbance to residential properties. On this basis the application proposals would not result in significant adverse harm to nearby residential properties and a reason for refusal could not be substantiated in this instance.

#### 6.5 Parking highways and transport

6.5.1 The containers are sited within an existing storage and delivery compound and as such will not be at the expense of any parking provision.

### 7. Summary

7.1 In terms of its scale, siting and visual appearance the containers are acceptable.

7.2 The proposal does not give rise to any material harm to the natural light, the privacy, or the outlook currently enjoyed by the occupants of the neighbouring residential properties.

7.3 Following the installation of acoustic louvres to mitigate the noise emissions associated with the containers, target noise levels have been achieved.

### 8. Conclusion

8.1 It is recommended that planning permission be granted subject to conditions set out below.

**Local Government (Access to Information) Act 1985**

**Documents used in the preparation of this report Background Papers**

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

**MT for 13/07/21 PROW Panel**

**PLANNING CONDITIONS**

**1. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

**2. Noise Attenuation**

The development hereby approved shall be implemented in accordance with the agreed details and the sound level mitigation outlined in the Acoustic report referenced DC3425-R2 and drawing ALD1. Thereafter all equipment shall be maintained, repaired and serviced in accordance with the manufacturer's recommendation. The equipment shall thereafter be retained as approved.

Reason: To protect the amenities of the occupiers of existing nearby properties.

**3. Future Removal**

When the containers hereby approved are no longer in use the containers and any associated materials and equipment shall be removed from the site and the land shall be restored to its former use and condition.

Reason: To ensure a satisfactory visual appearance in the interest of the amenities of the area.

**4. Storage Restriction**

No materials, goods or other items shall be stored on top of the containers hereby approved at any time.

Reason: To ensure a satisfactory visual appearance in the interest of the amenities of the area and in the interests of safety.