



NORTHAMPTON
BOROUGH COUNCIL
Planning Committee

PLANNING COMMITTEE: 18 October 2011
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

N/2011/0635: Installation of two storage tanks for contaminated water and processed oil Duston Oils, Port Road, Duston.

WARD: New Duston

APPLICANT: Mr Nicholas Page
AGENT: None

REFERRED BY: Cllr Matthew Golby
REASON: Public Fear of fire / explosion at the site

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 APPROVED for the following reason:

The proposed development, by reason of its nature, scale and siting, would not result in the undue extension or intensification of the existing lawful use of the site and would have no adverse impact on the visual or residential amenity of the area in accordance with Policies E19, E20 and B19 of the Northampton Local Plan and the aims and objectives of PPS1, PPG13 and PPS23.

2. THE PROPOSAL

2.1 This is a full planning application for the installation of two storage tanks for contaminated water and reclaimed fuel oil at Duston Oils. The proposed tanks would be cylindrical and be contained within a rectangular open top bund and both measure 10.7m long x 3.1m wide x 3m high. They would be made from mild steel and painted grey. They are proposed to be sited separately. The proposed waste water tank would be sited close to the western boundary adjacent to an

existing waste water tank and the fuel oil tank would be sited further into the site close to the eastern boundary.

3. SITE DESCRIPTION

- 3.1 The application site consists of an industrial site with access from Port Road, in New Duston. The main use of the site is for the reclamation and recovery of oil. There is a small car parking area at the front of the site which can accommodate up to 10 cars parked off road. Further off road parking is accommodated within the grounds of the adjacent site. The site is located within a primarily residential area as allocated in the Northampton Local Plan and is surrounded by residential properties.

4. PLANNING HISTORY & BACKGROUND

Environmental Health Background

- 4.1 Duston Oils operate a number of waste recovery operations at the application site. The principal operations are a solvent recovery process and a waste oil recovery process; the company also carry out some small scale bio-diesel production.
- 4.2 Following the enactment of the Pollution Prevention and Control Act 1999 and associated regulations all the operations at the site came under Environment Agency control in 2007. The operators applied for the necessary permit in March 2007 and following the resolution of issues raised regarding the planning status of the site a permit was issued in October 2007. The permit contains conditions to address issues including emissions to atmosphere, to land and to water, noise and vibration; energy efficiency, efficient use of raw materials, accident prevention and record keeping and reporting.
- 4.3 Once a valid permit is in place it becomes the principal means of control of the operations of regulated facility and the power to take statutory nuisance action is removed in respect of those matters covered by the permit.

Planning Background

- 4.4 The present use of the site benefits from planning permission by virtue of numerous consents, the majority of which were granted during or before the 1960s. The Borough Solicitor investigated the use of the site matter in 1991 and concluded that the use at the site is lawful.
- 4.5 Subsequent to the Borough Solicitor's 1991 investigation further land-use planning applications for the site were submitted, all of which now have been consented:
- 91/0847 was for vehicle crossover and no limiting conditions were attached to this approval;

- 91/0532 allowed the use of a garage / store building for general industrial purposes subject to a personal condition limiting its use to the applicant (Mr D Jacob trading as Ebco Research). Also see N/2004/1636 below;
- N/2001/358 for retrospective approval of a chimney was granted consent on appeal. No limiting conditions were attached to this approval by the Inspector;
- N/2001/942 granted planning permission for an open-sided enclosure. No limiting conditions were attached to this approval;
- N/2004/1636 was refused for the production of biodiesel. The application sought the removal of the personal condition (i.e. limiting the operator to Mr. Jacob trading as Ebco Research). The appeal was allowed; and
- N/2007/0616 Certificate of Existing Lawful Use (for the treatment by thermal means, storage and transfer of waste oils principally for use as a fuel, the recovery of chlorinated solvents for reuse by distillation, management of hazardous and non hazardous wastes by treatment, storage and transfer) was granted consent by the Planning Committee at its meeting on 26 September 2007 (Item 10A). In short the Certificate provides legal verification of the opinion provided by the Borough Solicitor in 1991.
- N/2008/1268 - Proposed installation of an above ground self banded 55000 litre water storage tank (retrospective) - Approved

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

5.2 National Policies:

PPS1 – Delivering Sustainable Development

PPG13 - Transport

PPS23 – Planning and Pollution Control

5.3 Northampton Borough Local Plan

E19 – Implementing Development

E20 – New Development

B19 – Business Development within Primarily Residential Areas

6. CONSULTATIONS / REPRESENTATIONS

- 6.1 Environment Agency:** No objection. The site benefits from Pollution Prevention and Control and Environmental Permits which are regulated by the Environment Agency.

- 6.2 **Anglian Water:** No comments received.
- 6.3 **NBC Public Protection:** proposals will be covered by the Environmental Permit for the premises and noise and smell issues are controlled by the permit administered by the Environment Agency. Understand therefore that it would be inappropriate to apply planning conditions relating to these matters.
- 6.4 **NCC Highways:** advise that it has no observations to make on this application.
- 6.5 **Duston Parish Council:** No comments received.
- 6.6 **22 Alpine Way** – asks that applications for Duston Oils submitted over last three decades are investigated along with comments and complaints of local residents. States this application is an extension of works and a consequential increase in problems – noxious smells, vibrations, continuous machinery uses, early transport movements, unsightly chimney stacks. Consider the installation of another 2 tanks will increase problems.
- 6.7 **20 Alpine Way** – Consider proposal will cause greater congestion in the yard with barrel and vehicle movements and more of a hazard if a fire occurs. Need to check that proposed reclaimed oil tank is not in a position where vehicles turn and park. If minded to approve should consider and ensure that tanks are not used for the storage and transfer of inflammable liquids, pipework or gantries are no higher than the height of the tank, any additional pumps to be subject to noise control and the small brick wall adjacent to boundary with 20 Alpine Way be raised in height.
- 6.8 **84 Port Road** – refers to fires at waste oil and solvent works in Kent and Sandhurst. States that the application should be refused as more oil stored on site increases fire risk. Refers to previous letters of objection submitted to the Authority concerning risks to nearby residents.

7. **APPRAISAL**

Main issues

- 7.1 Class B2 General Industrial use of the site is well established and lawful (see paragraphs 4.4 and 4.5). The site has been used for oil reclamation since the mid 1960's and the use of the site has been investigated and has been the subject applications and appeals on several occasions.
- 7.2 The current application is for the siting of two new storage tanks. The principal issues to consider are the impact on the character and appearance of the area and the impact on neighbouring properties. As

described at paragraphs 4.1-4.3, 6.1 and 6.3), matters regarding environmental protection impacts and risks to safety are subject to other non-planning controls.

- 7.3 The applicant states there is no intention to increase operations at the site. The proposed water tank (located to the south west of the site adjacent to an existing contaminated water tank approved in November 2008) is required to replace one of the seven underground tanks that have been decommissioned. The proposed reclaimed oil tank (located to the east of the site) is required because of new legislation regarding the grading of reclaimed oil.
- 7.4 With regard to the water storage tank the design and access statement submitted as part of the application states “Due to the nature of the arising of the contaminated water, often as a result of flooding or spillage, we have found the single tank to be insufficient to balance the unpredictable demand with the ability to onwardly dispose of the water and are therefore applying for a second tank to stand alongside the existing one.”
- 7.5 With regard to the oil tank the design and access statement advises that “the implementation of the “end of waste protocol for fuel derived from waste oil” has created a situation where we are forced to store two grades of the fuel oil we produce termed Reclaimed Fuel Oil (RFO) and Processed Fuel Oil (PFO). The PFO has to be pretested before sale and then sold as a discreet batch which therefore requires the use of our existing storage tanks leaving a requirement for a third tank for the storage of RFO.”
- 7.6 The water tank is required to replace the decommissioned underground tanks. Drums that are currently stored in this area will be moved to a storage area at the northern end of the site. The applicant states that a new system of onward disposal of wastes in drums has been put in place over the past few months which has improved efficiency. The result is that the operator now stores much less in the yard. The oil tank is needed because of new legislation that requires an operational change. For these reasons it is considered that the provision of the proposed tanks are a reasonable response to operational requirements rather than a significant extension or intensification of the use over and above the existing activity.

Neighbouring Amenity

- 7.7 The location of the tanks is within the existing yard area. Both are well screened from neighbouring properties by high evergreen hedges / trees and by 1.8 to 2 metre tall wooden fencing located inside this planting. Due to this boundary treatment, combined with the screening effect of existing on-site structures and buildings, the proposed tanks would not be readily visible from the street or neighbouring properties and would therefore not be detrimental to the visual amenity of the

area. Furthermore given the boundary treatment between the application site and neighbouring properties there would be no impact in terms of overshadowing or overlooking.

- 7.8 With regard to noise and odour, there are no objections from the Environment Agency or Public Protection Officers who state that it would be inappropriate to add a noise condition to any consent as these matters are controlled by the Environment Agency under their regulations.

Other Matters

- 7.9 One of the main concerns of neighbouring residents is the risk of fire at the site and concerns that additional tanks at the site will increase this risk. The production of biodiesel is an operation that requires a Pollution Prevention and Control Permit and an Environmental Permit. This legislation is enforced by the Environment Agency and addresses emissions to air, water and land, odour, waste, noise, energy use, vibration, accident prevention (including fire risk) and site restoration. The Environment Agency has been consulted on the application and has no objections. It states that the proposed use is covered by the existing permit for the site and that its officers regularly inspect the site, often unannounced. The Agency also advises that the proposals would actually result in a reduction in waste materials stored on site.
- 7.10 One objector has requested that the new RFO tank is not sited in an area allocated for vehicle parking and turning as specified in the Appeal decision relating to N/2004/1636. This appeal decision related to one building on the site and although allowed on appeal it would appear the permission was not implemented. Regardless of this it is noted that the current situation will remain as existing where articulated vehicles reverse into the site. The County Council as Highway Authority has raised no objection to the application.

8. CONCLUSION

- 8.1 It is considered that the provision of the proposed tanks would be unlikely to represent the extension or intensification use over and above the existing usage of the site and the proposal would not have a significant adverse affect on visual or residential amenity.

9. CONDITIONS

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

10. BACKGROUND PAPERS

10.1 Application files N/2008/1268, N/2007/0616, N/2004/1636, N/2001/0358, 91/0532, 91/0847, N/2001/942

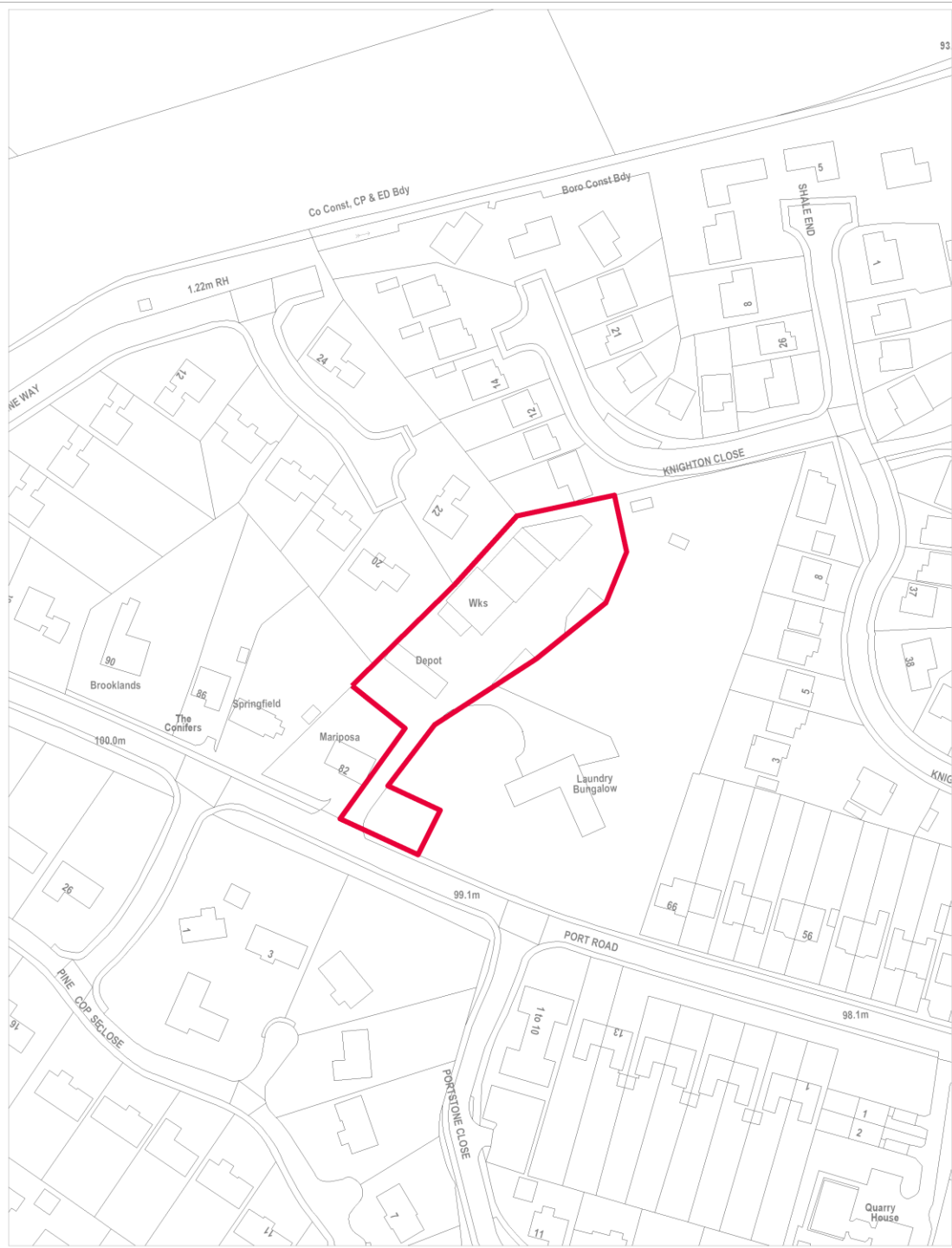
11. LEGAL IMPLICATIONS

11.1 None.

12. SUMMARY AND LINKS TO CORPORATE PLAN

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

Position:	Name/Signature:	Date:
Author:	Rowena Simpson	27/09/2011
Development Control Manager Agreed:	Gareth Jones	30/09/2011



Name: CH
 Date: 5th October 2011
 Scale: 1:1250
 Dept: Planning
 Project: Site Location Plan

Title

Duston Oils 70 Port Road

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