

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 1<sup>st</sup> June 2011

**Report of:** Adrian Fisher, Head of Planning and Policy

**Title:** 10/4422N – Application for Lawful Certificate for an Existing Use for Class B1 Light Industry at Swanley Mowers, Swanley Lane, Burland, CW5 8QB

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### 1.0 Purpose of Report

- 1.1 This application is to be determined under delegated powers. However, a call in request has been made by Cllr Margaret Hollins on the grounds that *“the change of use from principally retail and storage to engineering is creating noise and fumes to neighbours in this residential area”*.
- 1.2 The decision on these applications is taken purely on factual information, without any regard to suitability or whether or not planning permission would have been granted. The legal test of the evidence is on “the balance of probability”. Therefore such applications are delegated from Council to Head of Planning & Housing, however given the level of interest in this site, the Head of Planning & Housing is seeking “consultation” only from the Southern Planning Committee to allow any views to be expressed.

### 2.0 Decision Required

- 2.1 To note the content of this report and to provide comment to the Planning Officer.

### 3.0 Site Description and Details of Proposal

- 3.1 The application site forms a single storey premises located within the Open Countryside. The structure is brick built with a corrugated roof. The building contains a retail and sales area to the front of the site, an office, workshop to the rear and an area of storage to the side. Residential properties are located on either side of the unit.
- 3.2 This application seeks confirmation from the Local Planning Authority that the building and associated land has been used for class B1 – light industry. The consideration is whether the use on site has been carried out continuously for a period of 10 years.

## **4.0 Proposals**

### **Evidence Submitted by Applicant**

- 4.1 A summary of the relevant evidence submitted is provided below.
- 4.2 A statement has been submitted to support the application. The statement outlines that the current occupants of the site are Swanley Mowers who specialise in the selling and repairing of lawn mowers of both domestic and agricultural use. There is a shop and showroom in which mowers and mower maintenance parts are displayed and sold.
- 4.3 The previous occupants of the property were Dairy Scope who operated from the site from 1985 to 2008. It is stated that Dairy Scope used the land for the repair and maintenance of dairy machinery, it is asserted by the applicant that the processes and business was essentially the same as Swanley Mowers save for a few subtle differences in the type of machines that are repaired. A letter from Dairy Scope has been submitted which states that prior to 1985 the building was used by a business who operated the same as the current Swanley Mowers. That letter goes on to state that Dairy Scope operated a servicing and testing facility and, in their opinion, consider that there has been a continuation of a similar process between Dairy Scope and Swanley Mowers. A further letter from Dairy Scope states that they utilised the premises for milking machine maintenance within the workshop area. A letter from a local resident has also been submitted to support the application. That letter states that in 1985 Dairy Scope purchased the property to run an agricultural pump, milking machine equipment and agricultural repairs and supplies. In their opinion Swanley Mowers continue to carry out a similar operation.
- 4.4 On the request of the Local Planning Authority, further information was provided in relation to the operations of Dairy Scope and Swanley Mowers. It was confirmed that the layout of the building (i.e. sales areas and workshop etc) has not altered. That correspondence also identifies that Dairy Scope operated from the premises with 2 service vehicles, 2 sales vehicles, 1 installation vehicle and 2 staff cars. It is stated that Swanley Mowers has one vehicle to collect and deliver mowers. It is also stated that Dairy Scope received 2-3 deliveries per day from articulated lorries. Swanley Mowers has small vehicle deliveries twice per week. It is stated that the salesroom would receive an average of 5 visitors per day. It is stated that visitors to Swanley Mowers would be 5-6 per week. It is stated that the intensity of activity has reduced between the two occupants.
- 4.5 The LPA requested reasoning behind why they consider the two industrial processes to be of the same use. In response the wording of the General Permitted Development Order with reference to industrial processes was quoted verbatim. However, this could be used to describe B1 (Light Industrial) or B2 (General Industrial) activities which are in separate use classes.

### Representations made through consultation

- 4.6 Numerous representations have been received with regard to this application, below is a summary of the relevant comments.
- 4.7 A letter from John Crumplin Architects considers that the site has never been a nuisance to neighbouring properties, and consider that the activities conflict with B1 functions i.e. noise, fumes, vibration, hours of operation, testing of plant on a public road, obstructions caused by parking and deliveries. A letter from the neighbour claim that there has been a significant change in the nature of business at the site, a diary of activity (including extent of engine noise) was annexed. A further annex, which is a letter from the neighbour to the Local Planning Authority, states that the previous operation was as a storage and retail business with no servicing to machines or engines. The existing operation comprises services and repair resulting in significant noise, vibrations and fumes.
- 4.8 A letter from Mr Kendall, who states was the shop manager and then a service engineer for Dairy Scope, states that the property was used as a retail outlet and a base for service engineers. Only small workshop repairs were carried out at the Swanley site. Mr Kendall states that large noisy repairs were not carried out and that only a small vacuum pump was used. No fumes were extracted. Another former employee, Mr Inskeep, states that the noisiest equipment was a vacuum pump in connection of repair and supply of milking machinery, this was only occasional.
- 4.9 A representation from Mr Hazelton states that Dairy Scope was a storage and retail business and that there has been an adverse change resulting in fumes, noise and vibrations. Whilst a letter from Mr Robinson states that the Dairy Scope activity primarily involved the sale of products for dairy farmers and a large proportion of the floor was dedicated to storage. A letter from Old Shop Cottage, Swanley Lane, states that Dairy Scope were dairy equipment suppliers and that they did most of their business in the field maintaining and servicing dairy farm equipment.

## **5. Conclusion**

- 5.1 The Committee is invited to *make comment* on the application, but should be aware that the planning merits of the activities being carried out at the site are not for consideration. Furthermore, the decision of whether a positive certificate should be issued shall ultimately be made by the Head of Planning and Housing.

### ***For further information:***

*Portfolio Holder:*

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***Background Documents:***

*Application 10/4422N*