
Site Address: Unit 1 Industrial Estate, Palmers Road, Emsworth, PO10
7DH

Proposal: Variation of Condition No. 1 of Planning Permission APP/14/00669 to enable continued change of use of premises from Class B1 to Class B2 use for motorcycle repairs.

Application No: APP/15/01025

Expiry Date: 12/11/2015

Applicant: Mr J Bailey

Team: Team 2

Agent:

Case Officer: Heather Lealan

Ward: Emsworth

Reason for Committee Consideration: At Cllr Cresswell's request

EHPE Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The application site is located on the east side of Palmers Road, which is characterised by industrial uses. However the west side of Palmers Road is primarily residential in character and hence the area is very mixed, with 'conflicting' uses directly opposite each other.
- 1.2 Unit 1 is the most northerly industrial unit in a block of 6 units originally granted planning permission in 1981 (29347/2 refers) as light industrial units having an hours of use condition limiting the use of machinery to between 8.30am and 6pm Monday to Friday and 8am to 1pm Saturdays. The unit itself has a front elevation of part dark red brick and dark brown cladding with a large roller shutter door. There is an office with pedestrian door at the southern end of the front elevation. The unit is set back slightly from the highway having a tapered forecourt. There are double yellow lines immediately outside. The 6 units share a rear service and parking yard and this unit has 3 dedicated parking spaces - one to the front on the forecourt, one directly to the rear of the unit and one across the yard, adjacent the eastern boundary of the site.
- 1.3 The siting of the unit is such that it is directly opposite the midway point of the terrace of residential dwellings No. 4 - 16 Palmers Road. These houses have small front forecourts and rely on resident permit parking in the road in front. Immediately to the south of the terrace of dwellings are two residential garages.
- 1.4 Generally the units in the block all seem to have some sort of car repair use. The application site is already in use by 'JCB Motorcycle Services' and has been since May 2013.

2 Planning History

- 2.1 29347/2 - original planning permission for 6 industrial units granted 26/11/1981- with conditions including 5. for light industrial purposes only; 6. no goods, plant or material stored in open; 7. machinery shall only be worked between 8.30am - 6pm Mon to Fri and 8am - 1pm Saturdays

97/62652 - 2.3m gates & 2m fence to west. Permit 26/1/98.

99/63942 - first floor rear extension supported on pillars Permit 12/4/99.

APP/14/00669

Retrospective application for a change of use from B1 to B2 for motorcycle repairs. Temporary Permission granted by the Development Management Committee for 12 months ending on the 3 October 2015. Conditions were imposed restricting the use to the applicants' business only; limiting the hours during which machinery could be operated; limiting the use of the front forecourt and rear yard; and requiring internal bi-folding doors to be installed.

2.2 The planning history of the adjacent unit 2 is also relevant:

89/53421. change of use to MOT station and repairs to motor vehicles and supply and fitting of tyres and batteries. Permitted.

08/53421/001 Variation of condition 2 of Planning Permission 89/53421 to allow business to operate under Mr D Sly, Southern Tyre and Battery Service. Permit

08/53421/002 Variation of condition 3 of Planning Permission 89/53421 to allow hours of operation of business between 0800 and 1800 hours Monday to Friday and between 0800 and 1600 hours on Saturday. Not at all on Sundays or public holidays. Permit (previous condition had allowed work from 08:30) - *but for temporary period only, expired 11/4/2009*

3 Proposal

3.1 This application has been submitted to vary condition 1 of Planning Permission APP/14/00669 to enable the continued change of use of the premises from Class B1 to Class B2 for the motorcycle repair business that is operating from the site. All types of repair are carried out on bikes from basic servicing to major rebuilds, tyre replacement etc.

3.2 The effect of this application is therefore to consider if the 2014 temporary permission as granted by the Development Management Committee can be renewed without creating significant detrimental impact to the amenities of the occupiers of the adjacent neighbouring dwelling houses. If the conclusion is positive and the business, when operating in accordance with the conditions applied, is not found to be causing a significant impact then this application to vary condition 1 of the temporary permission should be permitted, as such forming a permanent authorised use for the site.

4 Policy Considerations

National Policies

National Planning Policy Framework 2012 - especially para 123
Planning Practice Guidance, March 2014 - Noise

Core Strategies 2011 forming part of the HBLDF

CS16 (High Quality Design)
CS2 (Employment)
CS4 (Town, District and Local Centres)
DM10 (Pollution)
DM14 (Car and Cycle Parking on Development (excluding residential))

The site lies within Emsworth District Centre boundary

Havant Borough Local Plan (Allocations), adopted July 2014

The site lies outside the AL3.1 Local Centre boundary. It backs onto, but is not within, the

AL8 Local Green Space allocation.
Policy AL1 - Presumption in Favour of Sustainable Development

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Development Engineer

No adverse comments

Environmental Health Manager

No objection so long as mitigation measures as proposed within the submitted noise assessment dated 23 October 2015 and those on the amended layout of the 10/11/2015, specifically increasing the thickness of the proposed acoustic boarding, are implemented.

Economic Development

No comments

Traffic Management Team

No Comments

Crime Prevention

No Comments

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 17

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 6 (2 in support)
(7 letters of support were submitted by the applicant with the application - these are available on line to view but have not been summarised below)

Summary:

Previous comments have been requested to be taken into account and are shown in italic font;

- (a) **Noise complaints:** *intermittent yet constant noise of revving engines; have had to keep windows closed & shout inside own lounge; unable to make phone calls, listen to radio, wear ear plugs in own home; goes on till evening (7.45pm) and until 4pm Saturdays; loud groups of men shouting above running engines; bad language & swearing.* Further representations submitted with regard to this Variation of Condition application have advised that when the applied conditions of APP/14/00669 are accorded with then the noise and amenity situation is improved, however comment is made that the conditions are being continually breached. Comment is also made that the sound proofing measures suggested at the time of the temporary consent have

not been addressed.

- (b) **Fumes & Smell:** *fumes affecting asthma*
- (c) **Outlook issues:** *Frontage a visual eye sore; 12-15 motorbikes wheeled out to forecourt daily; work carried out on forecourt & road; become meeting place for bikers and intimidating groups of men gathered round; smoking outside; workers present Sundays too. Customers continue to block the roadway and do not use the rear access.*
- (d) **Other issues:** *Fire hazard as workers smoke next to hot fuel tanks; increasing motorbike stock on site; causing stress and poor health; some bikes arrive as early as 6.30am; unsuitable use in residential area; making lives miserable; traffic generated a problem & difficult to park or pass in road; unit is too small for a B2 use. Business operation has an impact on privacy of adjacent residential properties. Impact sale of adjacent residential dwellings.*

Photographs have also been submitted

- (e) **Letters of support:** Excellent customer service and valued business in the area. Good location for customers. Suggests a prejudice towards motorcyclists rather than the operation of the business.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan and all other material considerations it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Noise/Fumes and Amenity
- (iii) Hours of use
- (iv) Employment
- (v) Highways matters
- (vi) Other matters

(i) Principle of development

7.2 The application site relates to an existing light industrial unit within the built up area of Emsworth. The principle of development is therefore acceptable in this location, subject to detailed considerations assessing the impact of the development to establish whether it causes demonstrable harm. The consent for the existing unit is authorised as a light industrial unit (B1). However, temporary consent was granted for a B2 use, (expired October 2015). It is therefore necessary for this report to consider whether the B2 General Industrial use and the specifics of the actual business the subject of the application would be acceptable as a permanent consent in this location as an 'exception'.

(ii) Noise/Fumes and Amenity

7.3 JCB Motorcycle Services has now been operating from the site for over two years and the impact of the change of use is already known. Since the temporary consent was granted neighbours have reportedly continued to experience noise and disturbance issues. However, in the lead up to the submission of this application no request has been made to the Council's Environmental Health department to undertake noise monitoring from neighbouring dwellings. This would seem to suggest that when the applicants operate the business in accordance with the conditions under which the temporary consent was granted, the business can be operated in a manner so as to accord with the Council's

planning policy CS16 and not cause unacceptable harm to the amenity of neighbours through such matters as smell, loss of privacy and outlook, noise and overlooking.

7.4 However, in light of previous complaints about noise to the Planning Enforcement and Environmental Health teams and the further neighbour objections that have been made to the application the subject of this report, officers deemed it necessary to require the applicants to submit a noise assessment report to demonstrate whether the business could in practice be operated acceptably at all times. A report has been duly submitted that records that noise levels associated with the operation of the business, (most notably the revving of engines to test function), could exceed acceptable background levels and therefore on such occasions the business operation would be in conflict with the requirements of the Borough's Core Strategy policies CS16 and DM10. However, the submitted noise assessment report goes on to suggest methods of mitigation to reduce the noise to an acceptable level – specifically the undertaking of all works to motorcycles at the rear of the unit and the installation of an acoustic enclosure/room within the unit for noisy works to take place within. It is considered by the Environmental Health team that if the mitigation measures as described in the noise assessment and as detailed on the amended layout plan are implemented then the business can operate in accordance with Core Strategy policies CS16 and DM10 in terms of the impact of noise and fumes.

7.5 Previously, when considering general residential amenity in the context of Application APP/14/00669, the members of the Development Management Committee took into account the application site's location, (being further north than the adjacent car repair units and as such directly opposite the residential dwellings of No. 6 to 10 Palmers Road), the fact that the business deals with motorbikes rather than cars and that the application site has a forecourt of some 3 to 4m depth across its whole frontage which is used daily for the parking of customer motorbikes. The nature of the business operation in light of these factors was considered by the Committee members to be acceptable in terms of its impact on the amenities of the occupiers of the adjacent residential dwellings and a temporary consent was granted on this basis. The context for the development is not considered to have changed since the temporary consent was granted, and when considering the noise impacts of this application for permanent consent it is considered it has been demonstrated by the applicant that, if the business operates in accordance with the previously imposed planning conditions, and also implements the further mitigation measures proposed within the submitted noise report and amended plan, then the business operation would not give rise to a loss of amenity to nearby residents and as such accord with policies CS16 and DM10 of the Core Strategy.

(iii) Hours of use

7.6 The original planning permission conditioned the hours of machinery operating to between 8.30am and 6pm Monday to Friday and 8am to 1pm on Saturdays. It is considered reasonable to impose a similar condition. This does not prevent staff attending the site outside these times to undertake other tasks such as catching up on paperwork or tidying up.

(iv) Employment

7.7 Havant Borough Council promotes local employment opportunities and seeks to protect jobs where possible (Policy CS2) and it is considered that the business accords with this policy.

(v) Highways matters

7.8 There is no formal objection from the Development Engineer, based on the fact that the County parking standards require 1 space per 45 sqm for B1 (b) and (c) uses i.e. the previous authorised use of the unit; and also 1:45 sqm for B2 uses. Therefore the B2

motorcycle repair use proposed does not trigger a different parking requirement. The highway issues reported by the neighbours and summarised in Section 6 above have been discussed with the Development Engineer, but these generally relate to the noise experienced from the use as well as the comings and goings to the unit. However as legal, road worthy vehicles using an adopted highway, the driving of a motorbike on Palmers Road itself does not cause a highway objection. Any alleged nuisance remains an amenity concern from the use of the site, rather than a highway safety issue.

(vi) Other matters

7.9 Other issues raised by neighbours relate to the general activity associated with the business and the groups of people congregating noisily outside whilst work is undertaken on motorbikes. However, it was previously considered by the members of the Development Management Committee that appropriate planning conditions could be attached to a temporary consent such to make the operation of the business acceptable in planning terms, and it is not the role of the Local Planning Authority to deal with issues of anti-social behaviour that are the role of other agencies.

8 Conclusion

8.1 Having regard to the planning history of the site, the nature of representations received in connection with this current application, and also the findings of the noise assessment report commissioned in respect of this application, it is considered that the permanent use of this site as a motorcycle repair centre can be operated in a manner that does not conflict with the requirements of policies CS16 and DM10 of the adopted Havant Borough Local Plan (Core Strategy) 2011. This is so long as the business is run in full accordance with the previous planning conditions and implements the suggested further mitigation measures within 2 months of the date of any planning consent. It is therefore recommended to grant consent to vary condition 1 of Planning Permission APP/14/00699 subject to the inclusion of all of the suggested planning conditions as listed below.

9 **RECOMMENDATION:**

That the Executive Head of Planning and Economy be authorised to **GRANT PERMISSION** for application APP/15/01025 subject to the following conditions:

1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 This permission shall enure for the benefit of JCB Motorcycle Services only and shall not enure for the benefit of the land and the use hereby permitted shall be discontinued on the date when JCB Motorcycle Services cease to occupy the land.

Reason: To maintain control of a wider Class B2 use of the site in the interests of neighbouring residential amenity and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework .

3 Machinery shall only be worked between 0830 and 1800 hours Monday to

Friday and 0800 to 1300 hours Saturdays; and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of nearby residential properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The forecourt area shall be used for the parking of motorbikes and customer vehicles only. At no time shall motorbikes or other vehicles be examined or worked on within the forecourt area.

Reason: To avoid noise and activity on the forecourt in the interests of neighbouring residential amenity having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 Only the rear yard area shall be used for any outside testing and examining of motorbikes.

Reason: To ensure all outside activity takes place away from residential dwellings in Palmers Road, in the interests of neighbouring residential amenity and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework .

- 6 The recommended noise mitigation measures as proposed within the submitted Acoustic Testing Report, (section 9), and as detailed on the proposed layout plan received on the 10 November 2015, shall be implemented in full within 2 months of the date of this permission. Thereafter the business shall be operated in full accordance at all times with the mitigation measures proposed within these documents.

Reason: To provide a noise buffer in the interests of neighbouring residential amenity and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan OS Licence No 100047474 received 27 July 2014
Block Plan OS Licence No 100035409 received 27 July 2014
Proposed elevations and revised layout plan detailing insulation of acoustic room received 10 November 2015
Covering letter submitted with the application received 25 September 2015
BS4142 Acoustic Testing Report prepared by Airtight & Noisecheck Acoustic Testing dated 23 October 2015 and received 4 November 2015

Reason: - To ensure provision of a satisfactory development.

Appendices:

- A: Location Plan
- B: Layout
- C: Existing Elevations & Floor Plan
- D: Proposed Site Layout

Additional Documents

<http://tinyurl.com/pcxaxvb>