

Recommendation: **GRANT PERMISSION**

APP/16/00275 - Erection of stand alone two classroom block located in car park to

front of existing building. PERM 12.05.16

3 Proposal

Change of use from business (B1) to special needs school (D1) to provide new food tech and design technology classroom/workshop teaching block; including external alterations and new canopy; six additional car parking spaces; new 1.8m high fencing to parts of site; and change of use of residential garden to school grounds.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS2	(Employment)
DM10	(Pollution)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM3	(Protection of Existing Employment and Tourism Sites)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

No objection providing the work is carried out in accordance with the Arboricultural Report by MJC Tree Services.

Crime Prevention -Minor Apps

None received

Economic Development

None received

Environmental Health Manager - Environment team

I have no objections to this proposal, however, the following is advised by our food/safety team:

The provision of a sink/washing facilities to the technology/workshop area is recommended, especially if paints, glue etc is to be used in this area.

Environmental Health Manager - Contamination Team

Contamination Risk

Comments on school site noted the industrial unit as a possible 'adjacent potentially contamination land use'.

The specific use of the building is unknown, but the character of the industrial / commercial uses in this area is typically engineering and manufacture, so is not unreasonable to conclude a similar use at the subject property (along with it's associated contamination risk). It does appear that the current building at the site was constructed on brown field land to replace (sometime before 1963) an earlier, smaller structure (built sometime between 1932 & 1952). Some construction / demolition related wastes might be expected to be present within shallow made ground at the site, and elevated concentrations of lead in particular might be found in local soils as a result of maintenance of the structure from painted surfaces) - this being a contaminant which is particularly harmful to infants.

Whilst it is again recognised that the proposals are for change of use & internal works only - I do note that a soft landscaped enclosed play area is proposed, and that the age-range quoted in the D&A statement is 8-16yrs., and not 11-18yrs. as indicated in the 2013 Pre-app.

Both the age class and the availability of soft landscaping / soft play areas are directly linked to the contamination risk, the former relating to biological (developmental) sensitivity to contaminants, and reduces body mass - the latter to the relevant routes of exposure. The prior application included hard-landscaped play areas only, so this risk factor was absent.

My prior response referred to the increased risk of behavioural exposure to soils (direct contact through play, ingestion & inhalation of dust) associated with the pupils which this establishment serves, and in the event that the adjacent former garden area has been affected by commercial activities immediately adjacent (the building proposed for conversion), there could be particular sensitivities associated with this proposed use. The minimum requirement under national policy is that land should be demonstrated to be incapable of being determined to be contaminated land following completion of the consented development. At this stage I am not confident to say that this would be the case - there is a conceptual model scenario which could in principal lead to the need for determination. For this reason, I conclude that it is both reasonable and necessary to confirm the suitability of the site for this purpose by means of a proportional, proactive site investigation.

If undertaken in a targeted manner (i.e. records office, historic trade directories, planning archive research, etc.); desk-based information may prove informative as to the risks at the site, so I have not excluded this element from the proposed condition. By way of informative, and for clarity, it may well be necessary to obtain samples from within the footprint of the building, depending upon the steer from desk based study. At this point my principle concern is the direct contact with contaminated soil particles (contact, inhalation, ingestion, whether outside, or as dust and soil physically tracked back or otherwise into the building). However, there are potentially mobile sources of volatile contaminants in the area, if not on site; so indoor inhalation pathways may prove to be relevant.

I would not be able to support a positive determination of this application in the absence of pre- commencement conditions.

Asbestos

I note that proposed works consist of internal alterations & minor exterior works only (canopy and boundary treatments), not entailing significant construction groundworks. As is indicated above, the property was constructed on brownfield land, so some made ground would be expected at the site. Prior landuse is likely to be commercial / industrial (use unknown at this stage), which may span a period of more than 20 years from the mid-1930's prior to redevelopment in the early 1960's. Contamination risks are

dealt with above. As regards the former structure, there is a low-moderate risk of asbestos contaminating materials being present within its fabric (and therefore within construction and demolition wastes disposed of to local soils. There is arguably a greater risk of asbestos presence as a result of commercial activities at the site, as the material would have been in common use for a wide variety of products during the period of operation. The contamination assessment referred to above should include an asbestos screen to qualify (or dismiss) this risk.

It is believed that the extant building(s) at the site were constructed between 1953 & '63, which is a period within which Asbestos is especially common as a construction material for commercial buildings. It is likely to have been used extensively at original construction for structural panels / sheeting & fencing materials, rainwater goods and insulation. Unless extensively refurbished, it is not unlikely that asbestos containing materials remain within building fabric, particularly in ducting & suspected ceilings, but also potentially in flooring, sanitaryware/plumbing/plasterwork and electrical installations.

Asbestos within the building is considered to be a H&S issue adequately regulated by the Control of Asbestos & Construction Design & Management regulations, and not material to planning. Asbestos within buildings is not contamination, it is 'potential pollution', harmful to construction staff and neighbours if inadequately identified or improperly handled.

I would recommend the applicant commission a pre-conversion Asbestos survey to identify any Asbestos Containing Materials within the property that might be disturbed during construction works, in order that these may be appropriately managed. You may wish to include this as an informative on any notice of positive determination of this application.

In dealing with any complaints about construction related dust, Environmental Health will assume the applicant to be fully aware of the asbestos risk when making any enforcement decisions.

Hampshire Highways

Highways' comments should be made by District Council's own engineers as size of application below Agency threshold

Highways Engineer

I would suggest that the entrance gate should mirror the layout of the exit gate which will allow safe pedestrian and vehicular access.

Planning Policy - on Initial submission

Principle of Development

The site lies within the urban area as defined by Policies CS17 and AL2 of the Local Plan which seek to concentrate new development within the five urban areas of the borough. There is therefore a presumption in favour of sustainable development, subject to other relevant material considerations in the development plan.

The existing premises are currently being used as a workshop/office for the fabrication of trophies (Class B1). The unit is currently occupied by Speedcut Contractors, a precision engineering business.

Policies CS2 and DM3 are therefore of relevance, in terms of setting out the development of land or premises currently or last used for B use class employment purposes to non-B use class employment will only be permitted where it has been demonstrated that the land or premises are not fit for purpose and financially unviable for B use class purposes. An active and exhaustive marketing exercise would normally be required to demonstrate the site is no longer suitable for B use class employment.

As the application submission does not make any reference to the need for marketing, this should be highlighted to the applicant's agent as soon as possible. If there are other or additional considerations which should be considered, these should be confirmed in writing by the applicant's agent.

The Council recognises there may, however be material considerations which indicate a deviation from the marketing requirement is appropriate in this particular case. For example, the development proposals would expand the existing school and provide additional learning accommodation for students with learning difficulties. The submitted Design and Access Statement also indicates that the proposals would support additional employment:

"The school currently employs 15 staff, this will rise to 23 consisting of 8 teachers, 3 instructors for specialist teaching, 2 administrators and 10 teaching assistants."

The proposals would, nonetheless, result in the potential displacement of a specialised nature and therefore result in potential harm to the business and the local economy.

To justify setting aside the market requirements which would normally apply, the applicant or the applicant's agent should provide evidence from the occupier which confirms that there is available and suitable accommodation which enables them to relocate. This could include a letter on company headed paper or electronic correspondence from an official company e-mail address.

Summary

In the absence of any further information at this stage, a policy objection would arise against the marketing requirement set out by Policies CS2 and DM3. It is recommended that this is highlighted to the applicant's agent as soon as possible to provide them with an opportunity to submit further information.

In order to set aside this policy requirement, it will be necessary for the applicant's agent to provide evidence which demonstrates that suitable and alternative accommodation which enables the existing occupier to relocate may justify a deviation from this policy requirement.

Planning Policy - on Policy Statement submitted

Disagree with the statement from the applicant's agent which suggests the development proposals would comply with the relevant policies in the Adopted Local Plan (para 5.6). In the absence of an active and realistic marketing exercise there would be a deviation from Policy DM3.

However, I'd suggest that there is a tilted balance in favour of the proposals a) given the business has already relocated elsewhere in Havant; and b) the proposed use would support at least the equivalent number of jobs.

Traffic Management

No adverse comment to make on this application

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: 10

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
None received	

7 Planning Considerations

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

- (i) Principle of development
- (ii) Compliance with policy re loss of B Use
- (iii) Impact upon the locality - character and amenity
- (iv) Highways and parking
- (v) Trees
- (vi) Contamination

(i) Principle of development

7.2 The site is located in an urban area whereby development is considered to be acceptable in principle subject to other development management considerations.

(ii) Loss of B use class office space

7.3 Part of the application site includes an industrial unit that was still in active use as a Precision Engineering firm (a B1 use) employing 5 people when the application was submitted. Policies CS2 and DM3 seek to protect and safeguard existing employment sites that are fit for purpose from non-employment development. Policy DM3 states that non-B use classes will only be permitted where it has been demonstrated that the premises are not fit for purpose and financially unviable for B use class purposes. Where it is clearly demonstrated that the site is no longer suitable for B use class employment, other types of economic development should be considered in the first instance. The unviability should be demonstrated through the submission of 12 months active marketing evidence.

7.4 However no such marketing has taken place and the unit was in use by a local B1 business who have been evicted due to this proposal. It is therefore assumed the unit is fit for B uses and it has not been demonstrated that it is not a viable unit. Accordingly the proposal is contrary to Policy DM3.

7.5 To address this loss of a business unit issue a supporting policy statement was requested and submitted. This statement notes that policy DM3 takes no regard to the location or desirability of retaining a non-conforming commercial use in close proximity to frontage dwellings. It further notes that within the Council's draft 2036 Local Plan, proposed policy C2 separates commercial uses into two categories - those within designated employment areas and those outside. It is noted that the application site is not within a designated area of the Draft plan and as such under this draft policy it

would be sufficient to show that alternative premises are available - and Speedcut have relocated to an alternative unit within Havant Borough. The policy statement also notes the current availability of other nearby units and makes the point that the school would increase the number of full and part time staff by 8. It concludes that the proposal complies with the relevant policies of both the current and emerging Local Plan.

- 7.6 Whilst the points this statement make are valid - nevertheless without any marketing exercise then the proposal is considered to remain a deviation from policy DM3. Furthermore, whilst indicating the direction of travel, at this stage the Draft Local Plan has limited weight in decision making. However it is acknowledged that the relevant material consideration is that the unit would continue to provide employment (with a net increase in jobs of 3), albeit as a school (D use) rather than B use. The policy does seek other types of economic uses as the optimum alternative and the proposed use for the expansion of the adjacent special needs school would further contribute to both the economy and the community use within the Borough. It is also relevant that the existing firm has relocated elsewhere within the Borough. Therefore, whilst not compliant with policy DM3, it is considered that the material considerations in this instance outweigh the policy objection sufficiently to indicate that the proposal can be supported as an exception.

(iii) Impact upon the locality - character and amenity

- 7.7 The area is in mixed use and the change from an industrial unit to an enlarged school use immediately to the rear of a dwelling would be likely to have different impacts. The school is currently registered for 22 students aged between 8 and 16, and this would rise to 30. The proposal includes the provision of an outside play area at the western end of the site. Activity and noise from the use of this area would be of children playing, during the standard school day and at break times, during term times only. Given the site abuts the public park to the immediate north of the site, and there is nothing to control noise resulting from recreational activity here, then the additional similar noise from the expanded school site is considered to be marginal.
- 7.8 The residential property of No 88 is within the ownership and control of the applicant and is currently located immediately adjacent the access serving the rear industrial unit. The proposal reconfigures the vehicular access to and from the car park serving the extended school by proposing a one way route with the entrance being adjacent No 88. A line of 4 tandem spaces are also proposed adjacent the side elevation of No 88. The use of this access would therefore be increased compared to the single industrial unit with an associated increase in noise and disturbance to the occupiers of No 88. However, no objection has been received as this dwelling is within the control of the applicant. Generally the surrounding commercial and community uses are congested with the area being heavily parked up during the day. The difference in vehicular movements would therefore only marginally affect the existing level of amenity and any additional noise and disturbance would be too insignificant to justify a reason for refusal.
- 7.9 The proposed new boundary fencing - blue 1.8m roll top fence would match that round the existing school and would help to define and tidy the site. The renovations to the industrial unit ie painting, new windows, canopy etc, would all improve its external appearance. Overall, given the already mixed character of the area, the proposed works and use would be unlikely to result in any material harm to the character and appearance of the area or amenity of neighbours. Consequently, it is considered that the proposal would have limited and acceptable impact on the properties immediately adjacent to the application site, meeting the requirements of Policy CS16 and DM10 of

the HBLP (Core Strategy). It is noted no letters of objection were received with respect to the scheme.

(iv) Highways and parking

7.10 The school site currently has 17 spaces available and the proposed inclusion of the additional land and re-configuration of the car park results in an additional 6 spaces, making 23 spaces. The current adopted Parking SPD requires 1 space per teaching member of staff plus 2 spaces per 3 non-teaching staff. The Design & Access Statement indicates that there would be 8 teachers; 3 specialist instructors; 2 admin; and 10 teaching assistants. Therefore the 23 spaces would meet the basic requirement. As a special school there would be less parent visitors (it is understood children often arrive in groups from the three separate homes, brought by people carrier or cars). As an extension to an existing school the additional 6 spaces are considered appropriate for the proposed development. The Highway Engineer has not raised any objection to the number of spaces, though commented that the entrance gates do not have the same recess as the existing exit. However if reconfigured with a bell-mouth, then that would impinge on 2 parking spaces. Overall the parking and highways is considered acceptable.

(v) Trees

7.11 There are two significant oak trees located within the north western corner of the site that contributes to the visual setting of the park behind the site. An Arboricultural Impact Assessment and Tree Protection Plan has been submitted noting them as category B and C trees that are covered in ivy with the existing industrial building constructed within their RPA. Provided the works are undertaken in accordance with the submitted AIA and TPP then there is no arboricultural objection to the proposal.

(vi) Contamination

7.12 Being an industrial site there is the possibility of contaminants being present and with the proposed use including open grassed field for children to play, then there is some risk. Accordingly conditions are recommended to undertake a site investigation prior to the commencement of development with any remedial works necessary agreed.

8 Conclusion

The proposed development would result in the loss of an existing viable B1 unit which has not been marketed for alternative business use. This is contrary to policy DM3. However the proposed D use would continue to provide an employment use and increase the number of jobs from the site. The former business operating from the site has relocated to alternative premises within the Borough. These factors are considered sufficient material considerations to justify the proposal as an exception to policy DM3. On balance the proposal is therefore supported and recommended for permission.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/18/00437

(A) 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 The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Access Statement April 2018 Rev A 04/05/18
Supporting Statement by the town planning experts
Tree Survey, Arboricultural Impact Assessment & Tree Protection Plan Rev:0 by MJC Tree Services dated 3rd July 2018
Plans and Elevations Drawing No 17-073-04 Rev C
Site and Location Plans Drawing No 17-073-01 Rev C

Reason: - To ensure provision of a satisfactory development.

- 3 The development shall not be brought into use until the parking layout showing 23 spaces and entrance and exit arrangement as shown on Drawing Number: 17-073-01 Rev C have been provided within the curtilage of the site and thereafter the approved layout and all of those spaces kept available for such purposes.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 4 The hereby approved building and site shall be used only for the purposes of a school and for no other purpose whatsoever including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: In the interests of the amenities of the locality and having due regard to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 5 All works contained within the Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan Rev:0 by MJC Tree Services dated 3rd July 2018 shall be carried out in full accordance with this document, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the health and well being of the trees on the site, having due regard to Policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 No development shall take place until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall investigate the nature and extent of any contamination on the site (whether or not it originates on the site). The assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority before

any development takes place. The submitted report shall include:

- 1) A site walk-over survey &/or sufficient desk-based research to identify;
 - All relevant previous uses of the site
 - Potentially significant contaminants associated with those uses
 - Uncertainties relating to previous use or associated potential contaminants
 - A conceptual site model identifying all relevant sources, exposure pathways and receptors, and;
 - A summary of potentially unacceptable risks arising from contamination at the site.
- 2) Site investigation based on (1), to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to all receptors that may be affected, including those off site.
- 3) The results of an appropriate risk assessment based upon (1) & (2), and where unacceptable risks are identified, a Remediation Strategy that includes;
 - appropriately considered remedial objectives,
 - an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;
 - clearly defined proposals for mitigation of the identified risks.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy (3) are complete, identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy and a verification report submitted to and approved in writing by the Local Planning Authority before any of the building(s) hereby approved are first occupied.

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], Contamination may be present at the site as a result of both previous & current land uses (&/or activities) at the site and in the vicinity that could pose a risk to future users of the development.

- 7 Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition 6 shall be submitted to and approved in writing by the Local Planning Authority.
- The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria have been met.
- Where longer-term monitoring of pollutant linkages is identified as being necessary, the report shall clearly set out plans for monitoring, provision for maintenance, relevant triggers and contingency actions (a “long-term monitoring and maintenance plan”).
- The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], Contamination may be

present at the site as a result of both previous & current land uses (&/or activities) at the site and in the vicinity that could pose a risk to future users of the development.