

Site Address: 45 Hulbert Road, Waterloo, PO7 7NX
Proposal: Retention of garage to side of log cabin for the storage of wedding cars in connection with wedding car hire business; retention of 2No. sheds; retention of flue and regularisation of fenestration on log cabin. (Retrospective application).
Application No: APP/17/00462 Expiry Date: 21/06/2017
Applicant: Mr K Hamilton
Agent: Case Officer: Tina Pickup
Ward: Waterloo

1 Site Description

APP/15/00664 permitted a log cabin which was conditioned: 1/ to be for a temporary period expiring 31st August 2020; 2/ to be occupied incidental to No 45 and not used as a separate dwelling and not enlarged or extended; 3/ have a finished floor level of 33.40; and 4/ constructed in accordance with the submitted plans.

2 Planning History

from 1No Oak (G1), reduce southern side of canopy by 2m of 1No oak(G1), reduce northern side of canopy by 4m of 1No. Pine (G1), these 3No trees from G1 all trees subject to TPO 1037.

, PERM,13/08/2015

APP/17/00956 - Fell 2No. Scots Pine, 1No. Common Yew and 1No. Oak, subject to TPO 1393., PERM,

3 Proposal

Retention of garage to side of log cabin for the storage of wedding cars in connection with wedding car hire business; retention of 2No. sheds; retention of flue and regularisation of fenestration on log cabin. (Retrospective application).

The two sheds are both timber having flat roofs and measure: Shed 1 - 7m long, 4.3m wide, 2.1m high;

Shed 2 - 7m long, 3.6m wide, 2.1m high

The lean-to style garage on the side of the cabin measures 18.1m long, 6.2m wide, 2.4m high. It has double opening doors on the front, west elevation, and is finished in dark brown metal cladding.

During the course of determining this application additional arboricultural information has been submitted.

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)
DM10	(Pollution)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
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Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

Initial comments:

Following our site visit I make the following comments:

- The garage, upgraded driveway surface, lighting posts and shed all have the potential to have impacted negatively on the surrounding TPO trees.

As a starting point the applicant is requested to instruct an Arboricultural Consultant to

assess the site and offer mitigation for the works that have been undertaken. A report for our consideration should then be submitted as part of the application.

Following submission of Arboricultural Information

Following my site visit (29/6/17) where I met with the owner and in conjunction with the recently submitted Arboricultural report by Sarah Johnston I have the following comments:

Shed 1 (shown on the site plan) is constructed on a raised brick base with a sheet of DPC offering ground treatment – there appears to be no subterranean excavation and as such any tree root disturbance has the potential to be minimal in relation to the surrounding trees – No objection raised.

Shed 2 is located within the RPA of Oak T1 and is showing signs of being installed on a concrete base, this was also confirmed by the owner to Jamie Gargett during a previous visit. Therefore these findings highlight an inconsistency within the tree report which states that the shed has been built with no alteration to the ground levels. However the removal of this shed may cause a greater level of damage to the surrounding trees if it were removed rather than remaining in situ.

It would appear in the tree report that the RPAs of T2 and T3 Oak trees have been slightly underestimated, However, Oak T2 is exhibiting poor structural and physiological condition – this has been a gradual decline over a number of years and not as a result from the construction of the shed.

The construction of the garage will have negatively impacted on the roots of T1. However if the work has been carried out as the report states, then this impact will have been lessened and the removal of this structure is likely to cause greater harm to the tree if it is removed as opposed to remaining in situ.

The upgrading of the driveway area and the installation of lighting posts have not been addressed in the report – this should be discussed.

The driveway is the main area of concern in the form of compaction to the roots in an area; the area should ideally be returned to grass or at the very least an alternative ground protection solution must be designed and installed. AMS to be submitted and agreed by the LPA to include removal of the current surface, aeration/de-compaction within the RPAs and a no-dig load cellular confinement system installed.

Arboricultural Method Statement subsequently submitted and comments as:

The AMS is comprehensive and meets the needs of the site and I raise no objection to the retrospective application.

If permission is given then the AMS will need to be conditioned

County Waste Management

None received

Engineering/Drainage

Nothing further to add to EH drainage comments

Environment Agency

None received

Environmental Health

I have reviewed this application from a pollution perspective, and note the limited

information provided with the application in relation to the servicing arrangements, particularly as they relate to drainage.

I had previously raised concerns as regards the vehicle storage and parking facilities being up topographic gradient of the Hermitage stream (where dissolved phase, free-phase liquid-, or suspected solid phase- pollutants could migrate by gravity). The Hermitage is a controlled water, and consequently any direct / indirect inputs of pollutants or wastewater connected with a commercial enterprise are prohibited other than following a waste water treatment process as may be consented under an environmental permit.

Further to our discussions, and your liaison with the applicant, it is understood that all vehicle maintenance & refuelling activity is undertaken off site, and that no stocks of fuel are stored in connection with the operation of the wedding car hire business.

It is also understood that the external parking areas are not served by a formal drainage system, and that roofwater is collected and communicated to a soakaway feature that was installed in accordance with the current building regulations. The applicant has indicated that vehicle cleaning is done using a solvent-free spot cleaning process using water based cleaning solution predominantly dispensed by means of a hand held spray bottle. In consideration of the applicant's description of the frequent of cleaning, and cleaning process; the lack of an impermeable external parking surface or direct communication of parking area drainage to the Hermitage stream, and the and vegetated runoff zone; it is reasonable to conclude that cleaning /waxing activities are unlikely to have a material negative effect on the controlled water.

I remain concerned that commercial automotive activity is often associated with poor environmental practice, and release of pollutants to land &/or air. The applicant has subsequently indicated that the 'high risk' activities that would be a cause for concern are not undertaken at the site in connection with the wedding car hire business; and it is noted that the storage facilities are clean & tidy, giving no indication that such activity is undertaken.

Whilst it is understood that the use under application is likely to be subject of a temporary consent, there is a potential that it may be extended or made permanent in future, and could be transferred to another business operator. In recognition of the positioning & proximity of this business use in relation to a sensitive environmental receptor, it is considered prudent to restrict high risk activity. I have no in principle objection to the proposals, subject to the imposition of a suitable planning condition to achieve this end. Proposed wording below:

No mechanical servicing or repair, refuelling, bodywork repair, or refinishing of vehicle paintwork shall be undertaken connection with the business use hereby permitted.

Reason: *Having due regard to policy DM10 of the Havant Borough Adopted Core Strategy [2011]; to mitigate the risk of pollution that may adversely impact the Hermitage stream, a controlled water and designated main river that lies down-topographic-gradient of the garage, cabin & parking areas.*

For clarity, it is not intended that 'mechanical servicing' be interpreted to include low risk activity typically undertaken by non-professionals, such as tyre pressures, wheel changes, replacement of bulbs / wipers, removal of non-mechanical parts for cleaning purposes (etc.). It is intended that this description apply to the use of mobile mechanics for MOT, oil changes, and the servicing of hydraulic systems, engine or transmission.

Similarly, 'bodywork repair' should apply to the use & honing of fillers, and the application of primers, colour base & clear- coats. Paint-free dent repair (for example), is low risk, and therefore should not be taken to be a breach of condition.

Property Management, Hampshire County Council

None received

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: 16

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
major concern is with the log burner flue; sited lower than the surrounding properties and as such causes fumes and wood smoke to accumulate in surrounding area; approval was granted on proviso that the cabin to be occupied incidental to 45 Hubert Road ...and not enlarged or extended...and that the cabin would have minimal visual impact. These conditions not met. Buildings already built However as permission limited to 31 August 2020 when must be removed and the site restored to its original state, then I have no other objections	

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) Appropriateness of design and impact on the character of the area
- (iii) Impact of business use on neighbouring amenity
- (iv) Impact of flue and Building Regulations
- (v) Trees
- (vi) Drainage/Pollutants

(i) Principle of development

The application seeks retrospective permission for the finished window and door positions, the flue, 2 sheds and side garage. This side garage is being used as part of a business so this application also seeks to regularise the change of use to a wedding car storage and hire business.

The site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. Regard must be had to the fact that the existing cabin is permitted as a temporary structure, the current

permission expiring on 31st August 2020. This is because the wooden cabin building was not considered of a type suitable for permanent retention. Therefore any further associated development on the site should also be time limited to coincide with the cabin. At that point in the future either the cabin must be removed from the site, or a further application submitted to extend the permission.

(ii) Appropriateness of design and impact on the character of the area

When constructed the wrong roofing material was used (blue) and this breach of the original consent has now been satisfactorily regularised and the roof replaced with a suitable brown covering. Photographs have been supplied of the brown finish and therefore no further enforcement proceedings remain outstanding for this matter.

The window and door positions as built do not harm the appearance of the overall cabin. The flue is mounted on the rear, northern, roofslope and due to the set back from the head of the cul-de-sac, is not overly visually prominent or harmful to the area.

The two sheds that have been erected are also of an appropriate timber finish. They have flat roofs and domestic doors. Because they are sited on the northern boundary under the trees (see separate tree issues below) they are successfully screened and not visible from the public highway. Whilst the upvc doors are a little incongruous and not traditional 'shed' doors, they are nevertheless not visually harmful in a residential area.

The large side garage is a lean-to style on the entire northern length of the cabin. As such, visually, it is not visible from the Hulbert Road cul-de-sac and therefore does not harm the visual amenity of the area. The enlarged hard surfaced area to the west of the cabin and garage enables the parking and turning of several cars. Whilst this is of a scale greater than surrounding residential properties, the vintage cars are only relatively briefly kept out in the open and are stored overnight and out of the rain in the garage.

Overall, the operational development subject to this retrospective application is not considered to have any adverse impact on the visual amenity of the street scene. The design and appearance of the proposal is deemed appropriate in context to the main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core strategy).

(iii) Impact of business use on neighbouring amenity

The wedding car hire business includes 7 vintage style cars that are stored in the side garage. Being vintage some have soft tops and open sides and need to be stored inside. Similarly they are only washed using hand water bottles/sprays and cloths. It is stated that the business is run by the applicant and his family members drive the vehicles on wedding days only - usually Fridays and Saturdays. His son lives in the main dwelling at 45 Hulbert Road. Bookings are taken by phone and over the internet/facebook and there are no employees for this admin stage.

Although 7 cars are owned, it is understood that a maximum of 4 bookings are taken at any one time - because that is the limit of available family members to act as chauffeurs. Other visits to the site are limited to occasional customers/clients who come to view and choose a car and has been estimated as approximately 1 visit a fortnight. There are no other drivers or staff coming and going from the site.

The cars are all serviced off site at local garages with no car maintenance (except cleaning) taking place on site. It is understood that the wedding car hire business previously operated from the applicants former address (at No 55 Hulbert Road) for about 7 years and was transferred to No 45 when the log cabin and garage was completed about a year ago. In that time only 2 letters have been received - one alerting the LPA of the breaches at the site and the one above following consultation of this application.

Given the specifics of this vintage wedding car hire business and its family operation without any staff or significant comings and goings, the material harm to neighbouring residential amenity is considered limited. The site is of a sufficient size to accommodate the vehicles. The maximum additional vehicular movements would appear to be 4 wedding cars leaving and then returning to the site on Fridays and at weekends. The noise and disturbance associated with these movements would be very marginal in the context of this high density residential area off the B2150. This would be unlikely to cause any harm to residential amenity contrary to Policies DM10 or CS16 of the Core Strategy sufficient to warrant a reason for refusal. Since it is the specifics of the vintage wedding car hire business that make the proposal acceptable, (rather than any other car hire business) it is recommended to condition the use as such and linked to the occupiers of the cabin and 45 Hulbert Road.

(iv) Impact of flue and Building Regulations

Whilst the flue is visually acceptable, (as noted above) the smells associated with its use are subject to the letter of objection. Because the site sits lower than surrounding dwellings the smoke from the use of the log burner does not rise above surrounding houses. In terms of policy DM10 an assessment needs to be made as to whether the use of the log burner actually put the health and safety of nearby occupiers and residents at risk. Regard must also be had to Class G of Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 which allows for chimneys and flues to be added to dwellinghouses (subject to certain criteria) and as such neighbouring houses in this hollow could also have log burners under permitted development. Therefore in this built up residential area the material impact of the smells associated with the use of this one extra flue is considered marginal and unlikely to cause a health and safety issue contrary to policy DM10.

It is also noteworthy that smells from smoke would be subject to Environmental Health nuisance legislation and any future complaints can be addressed to Env Health who would assess under the Environmental Protection Act to ascertain whether a statutory nuisance exists, and if so, they could take action to prevent the recurrence, which may mean the log burner cannot be used.

The Council's Building Inspectors have also advised that the cabin has not been issued with Building Regulations Approval and with the attached garage and wood burner and flue, cannot meet their technical requirements. As such, the building as existing does not meet these standards and will not be signed off. This will have consequences for the applicant in terms of insurance and any future sale. However these are issues covered by separate legislation and are not reasons to refuse planning permission.

(v) Trees

The northern boundary of the site comprises a woodland belt and many of the trees

within this strip of land are protected by Tree Preservation Orders. The 2 sheds have been sited directly beneath the canopies of these trees, and the side garage encroaches into their root protection zones. Additionally the hardsurfaced scalping driveway extends beneath these trees, and an external light with below ground wires has been erected. Due to the potential negative impact of these operations on the trees an Arboriculturalist was appointed and a tree report submitted. Upon further input from the Council's Arborist an additional Arb Method Statement was also prepared to address the compaction of the drive and lighting posts.

This report recommends remedial works including the removal of tarmac within the RPA's of affected trees followed by soil decompaction and top-dressing; and removal of electric cables; the installation of a no dig driveway and fencing. The Council's Arborist has confirmed that the proposed remedial works and stages are comprehensive and meet the needs of the site. Provided the AMS is conditioned then there is no objection on tree grounds and the technical works would protect the long term health of the trees in compliance with policies CS11 and DM8.

(vi) Drainage/Pollutants

The Hermitage Stream crosses the site and Env Health have raised concerns about potential pollutant run off into this stream. However the nature of the business with vintage cars with only solvent-free spot cleaning and no on-site vehicle maintenance, then on this basis it is concluded the business is unlikely to have a material negative effect on the controlled water. To protect the controlled water in the future a condition is recommended.

8 Conclusion

The unauthorised works and use at this site have been satisfactorily addressed by the applicant in planning terms. The blue roof has been replaced with brown separately to this application. This application seeks to regularise the business use, garage, flue and doors and windows. The specifics of the wedding car hire business are considered acceptable in this location but needs to be conditioned to link in with the expiry of the cabin and the occupants, and limited to wedding and vintage style cars. The negative impact on the protected trees can be mitigated through the implementation of the submitted AMS. It is however acknowledged that the attached side garage and flue do not meet Building Regulations, but this does not prevent planning permission from being granted. Overall the retrospective development is considered to have limited and acceptable impact on the neighbours and is therefore considered to be appropriate and recommended for temporary approval.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT TEMPORARY PERMISSION** for application APP/17/00462 subject to the following conditions

- 1 This permission shall be for a limited period expiring on 31st August 2020, on or before which date the garage hereby permitted shall be permanently removed from the site and the land shall be restored to domestic curtilage unless the prior written consent of the Local Planning Authority has been obtained in writing for a further period.

Reason: The garage building is attached to a temporary cabin that also

expires on 31st August 2020 and combined they are of a type not considered suitable for permanent retention and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, (as amended) and any Town and Country Planning (General Permitted Development) Order, the mixed use of the site shall comprise:
 - (i) the log cabin to be occupied for ancillary residential purposes to No 45 Hulbert Road only;
 - (ii) the garage and hardstanding to be used for the storage of wedding and vintage style cars in connection with a wedding car hire business of vintage style cars only; and
 - (iii) the two sheds to be used for ancillary purposes to (i) and (ii) above only.No other use shall take place on the site unless first agreed in writing with the Local Planning Authority.

Reason: To maintain control over other business uses and their impact on neighbouring 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 The wedding car hire business hereby permitted for the site shall only be operated and managed by the occupiers of the ancillary residential building on the application site, and/or the occupiers of 45 Hulbert Road.

Reason: To ensure the business use is not operated independently of the dwellings on the site, in the interest 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.
- 4 No mechanical servicing or repair, refueling, body work repair, or refinishing of vehicle paint work shall be undertaken on site in connection with the business use hereby permitted.

Reason: To protect neighbouring amenity and to mitigate the risk of pollution that may adversely impact the Hermitage stream, a controlled water and designated main river that lies down-topographic-gradient of the garage, cabin & parking areas, having due regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 5 All works contained within the Arboricultural Method Statement and Appendix 1 by Johnston Tree Consultancy dated September 2017 shall be carried out in full accordance with this document by 30th June 2018, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the health and well being of the protected 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 The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan
 - Block Plan
 - Log Cabin Elevation 1
 - Log Cabin Elevation 2

Log Cabin Elevation 3

Log Cabin Elevation 4

Log cabin floor plan

Shed 1 photos

Shed 2 photos

Side garage photos

Tree Report and Appendix 1 by Johnston Tree Consultancy dated June 2017

Arboricultural Method Statement and Appendix 1 by Johnston Tree

Consultancy dated September 2017

Reason: - To ensure provision of a satisfactory development.