
Site Address: 33 Creek Road, Hayling Island, PO11 9QZ
Proposal: Proposed retrospective roof extractor flue, storage shed, garage store, and replacement boundary wall.
Application Type: Full Planning Permission
Application No: APP/22/00771 Expiry Date: 29/09/2022
Applicant: Mr Bakovljev
 Alnista Retirement Benefits Scheme
Agent: Mr Jay Case Officer: Joseph Toole
 The Planning Service
Ward: Hayling East

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 33 Creek Road, Hayling Island, is located to the west side of Creek Road. The existing buildings are semi-detached and detached business units.
- 1.2 The units are located with a mixed use area with a number of commercial units fronting onto Creek Road. The units back onto a residential area with a number of properties surrounding the application site.
- 1.3 Part of the application site is located within Flood Zone 2/3. The application site is also in the Climate Change future Flood Zone 2/3 area - 2115.

2 Planning History

94/54945/005 - Modification to front elevation., PERM,12/05/1994
APP/21/01413 - Installation of roof extractor flue, storage unit, garage store, and replacement boundary wall (retrospective application)., WD,09/02/2022
APP/21/01415 - Change of use application from B2 (general industrial) to A1 (Retail) (Retrospective)., WD,09/02/2022
APP/22/00766 - Retrospective material change of use at Unit 2 Sui Generis to B8, Unit 3 Sui Generis to B2, Unit 4 E(g) to B2, Unit 6 Sui Generis to B8, Unit 7 Sui Generis to B8, Unit 8 Sui Generis to B8, to continue the current use a businesses, DEL,
APP/22/00765 - Proposed retrospective change of use from Sui Generis to Class E, DEL,

3 Proposal

- 3.1 Due to the passage of time some of the history for the site is incomplete. The Local Planning Authority (LPA) considers it may have been used as a garage forecourt and vehicle repairs from the Appointed Day. This has been considered to be a Sui Generis use. This means the site is of its own kind, unique. The proposal is for retrospective permission for a roof extractor flue within the roof of Unit 3 used by Ginga Auto Body Repairs for their spray booth, which is a Class B2 use. The proposal is also for retrospective permission for a storage shed along the rear boundary to be used as Class B8 (Unit 10). There would also be a garage extension to Unit 6 to be used as

Class B8 (Unit 9). Along the north boundary retrospective permission is being applied for a replacement boundary wall in concrete blockwork at a height of 2 metres.

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

CS16 (High Quality Design)

DM14 (Car and Cycle Parking on Development (excluding residential))

Havant Borough Local Plan (Allocations) July 2014

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Leah Turner - Hayling East

No Comment.

Councillor M Wilson - Hayling East

No Comment.

Councillor R Raines - Hayling East

No Comment.

Crime Prevention -Minor Apps

No Comment.

Economic Development

No Comment.

Environmental Health Manager, Community Group - Objection to B8 Use

I refer to the above application under the Town & Country Planning Acts passed to this Service for comment.

I have perused the enclosed plans / documentation provided by the applicant, for this retrospective application.

The address for this site is 33 - 35 Creek Road, Hayling Island, PO11 9QZ. There are residential properties situated within the confines of the site, and adjacent the Northern, Western and Southern boundaries.

a. This office has no objection in principle to the retrospective application for units 9 and 10 i.e.garage store and storage shed, respectively. I would assume that if

approved, they would be designated a Class B8 usage, in line with the other existing units on this site i.e. 2, 6, 7 & 8. However I would ask that if these units are to be approved for B8 usage, that the following conditions be applied:

Condition 1: The times of access to, or use of these units, for the purpose of work, storage, loading & off-loading and /or collections / deliveries, be restricted to 07:30 to 19:00 Monday to Friday, 08:00 to 13:00 on a Saturday, and not at all on a Sunday or Public holiday.

Reason: To ensure the amenities of neighbouring residential receptors, within and adjacent this site, are not detrimentally impacted by any noise, fumes or odour levels, and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 2: The external yard areas associated with this site are not to be used for B8 storage purposes, by stand alone businesses, or by businesses / persons already operating on the site .

Reason: To ensure the amenities of neighbouring residential receptors, within and adjacent this site, are not detrimentally impacted by any noise, fumes or odour levels

b. In a similar vein, this office has no adverse comments to make regarding the boundary wall.

c. With regard to the retrospective roof flue portion of this application, this office raises objection to this aspect of the application, as it serves the spray booth currently situated in Unit 3. The reasons for objection will be covered under my consultation response to App/22/00766 dealing with change of usage of units on this same site, and including Unit 3.

Please contact me should you require any clarification in regard to any of the above comments.

Environmental Health's Consultation Response to APP/22/00766, in respect of the B2 use:

With regard to the change of use to Class B2 General industrial, being proposed for Units 3 and 4, this office raises objection to this aspect of the application, and would recommend refusal in relation to these two units. The reason for this is as follows:

B2 usage is not a class intended for use within a residential area, especially one in such close proximity to residential receptors within and adjacent to the site.

It is this office's contention that if it is the applicant's intention is to use, or allow to be used, these two units for industrial process purposes, that only businesses that fall within Use Class E (g) (iii), be allowed to occupy either of these units. Class E (g)(iii): any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

The current use being carried out in Unit 3, would in all likelihood, be considered as a B2 usage, and whilst there seems to be some uncertainty as to the current or proposed usage of Unit 4, B2 usage has been applied for.

Hampshire Highways - No Objection

Thank you for your consultation on the above planning application. The Highway Authority wish to make the following comments.

The Highway Authority have undertaken a TRICS assessment and are satisfied that the proposed change of use will not lead to a detrimental impact on the wider highway network.

It is Havant Borough Council's responsibility as Local Parking Authority to confirm whether the proposed parking is acceptable in accordance with their standards.

Having regard to the above, the Highway Authority provide no objections to this planning 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: 41

Number of site notices: 3

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
Public Notice hard to rear	Two new site notices were placed within the vicinity Please see Section 7 for all other objections points.
Since spring 2019 issues with units	
Object to all planning except the replacement boundary wall	
The erection of an extractor flue has encouraged new businesses to undertake fibreglass works of pain spraying causing dust, smell and noise issues	
More sheds will mean more noise	

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) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways and Parking

(i) Principle of development

7.2 The site lies in an urban area, where there is a presumption in favour of development, subject to normal development control criteria. The Local Planning Authority (LPA) recognises the economic and social benefits the proposal brings, which are balanced against the environmental and amenity considerations.

7.3 The extraction flue facilities the Class B2 use for Unit 3 as a spray booth which is occupied by Ginga Autos. This has been found to be unacceptable in planning terms by the LPA due to problems with noise, vibration, smell, fumes, smoke, soot, ash, dust or grit and as a result refused under planning application reference APP/22/00766 for the following reason:

"The change of uses to B2 would be inappropriate within the context of the area, predominantly being residential. Furthermore, due to type of activity that can be carried out under a B2 use, it has resulted in a significant and demonstrable harmful impact on the surrounding residential neighbouring properties in the form of noise, disturbance, smell and fumes. This is contrary to Policy CS16 of the Havant Borough Core Strategy (2011) and the guidance in the National Planning Policy Framework in paragraph 130."

7.5 For site context please see extract below from planning application reference APP/22/00766:

"As previously mentioned, due to a paucity of historical planning documents, it has not been possible to establish when the lawful use of the site commenced, as a service station/garage forecourt with vehicle repairs. This use may have been lawful on the Appointed Day, with the planning history indicating that a permission was granted in association with this use in the early 1950s. A further permission granted on December 1985 for use of Building B, (Unit 5) for vehicle serving and repairs under Ref: 15650/5, which the Local Planning Authority (LPA) considers is a Class B2 use, on current information available. It is not been possible to determine from the LPA records, whether this use was originally associated with the service station, or a standalone use, which is now the case. The LPA has also not been able to determine when the service station use ceased, with the indication that it may have been between 2017-2019. Therefore, it is recognised by the LPA, that the lawful use of the land, may have given rise to a level of noise, disturbance, smells and fumes to the locality and to neighbouring residential properties.

That said, the character of the area has materially changed over the years. Of particular relevance to the proposal, is the granting of planning permissions for residential development within close proximity of the application site. These relate to APP/13/00002 for the construction of a 3rd storey to provide 1 No.2 bed flat (29-31 Creek Road) where permission was granted in April 2013; Ref: HWU/04098 for the conversion and additions to garage to form bungalow (42A West Haye Road) where permission was granted in November 1955; Ref: 21290/4 for the erection of 2 bungalows (38a and 38b West Haye Road) where permission was granted in January 1982 and Ref: 15937/9 for the erection of four two-bedroomed flats (flats 1-4 at 27A Creek Road) where permission was granted in October 1986. Therefore, when considering the application, the planning considerations have materially changed, having regard to adopted policy and national advice. As to a Class B2 use, by its very definition, it is likely to give rise to a number of harmful factors, such as noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The principle of the

intensification of a Class B2 on the site, is unacceptable in planning terms, due to the significant and demonstrable harm such a use has had and would continue to have on residential amenity – demonstrated by the letters of objection received. An acceptable site for such a use would be an authorised industrial estate. The change of use to B2 is contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, which seeks to resist development that causes unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking and the advice in the National Planning Policy Framework in paragraph 130. "

7.6 The development facilitate this Class B use, which is also unacceptable in planning terms, contrary to Policy CS16 in the Havant Borough Local Plan (Core Strategy) and the National Planning Policy Framework.

7.4 The principle for retrospective permission for a storage shed along the rear boundary to be used as B8 (Unit 10), a garage extension to Unit 6 to be used as B8 (Unit 9) and a replacement boundary is considered to be acceptable.

(ii) Impact upon the character and appearance of the area

7.6 The proposed retrospective works relating to a garage extension and shed have a Class B8 storage use. The Class B8 retrospective uses due to their limited scale of activity are considered to be controlled through conditions. These would include operational hours, vehicles accessing the site and no use of the external yard area for storage. Therefore, the Class B8 uses are considered to be inkeeping with the character of the area, complying with Policy CS16 of the Havant Borough Core Strategy (2011).

7.7 The proposed retrospective replacement boundary wall and extraction flue would not be readily visible from the street scene. As a result, they are considered they would not be out of keeping with the character of the area, complying with Policy CS16 of the Havant Borough Core Strategy (2011).

(iii) Impact upon residential amenity

7.8 Policy CS16 of the Havant Borough Core Strategy states all development should demonstrate that the development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.

7.9 The retrospective extractor flue serves unit 3, which is currently operational as a Class B2 use. The Council's Environmental Health Officer has objected to this Class B2 use under planning reference APP/22/00766, as set out above. Furthermore, due to the concerns with the Class B2 use within this residential locality, the extraction flue would have a significant and demonstrably harmful impact on the surrounding neighbouring properties due to fumes and smell, contrary to Policy CS16 of the Havant Borough Core Strategy (2011) and the advice in the National Planning Policy Framework in paragraph 130.

7.9 The extensions to the Class B8 uses can be controlled through a number of conditions, which would in turn reduce any unacceptable impacts on the neighbouring residential properties. Therefore, the extensions to the Class B8 uses are considered to have an acceptable impact upon the local amenity of the area, complying to Policy CS16 of the Havant Borough Core Strategy (2011).

7.10 The retrospective replacement boundary wall is not considered to have a negative

impact upon neighbouring properties, complying to Policy CS16 of the Havant Borough Core Strategy (2011).

- 7.11 Discussions took place with the applicant's agent on how to proceed with the application. It was recommended that as the Local Planning Authority expressed no concerns with the garage extension, shed and boundary wall, the extraction flue could be withdrawn from the application and permission would have been recommended. The applicant's agent did not wish to do this and asked for the application to be determined as is.

(iv) Highways and Parking

- 7.13 Hampshire Highways commented on the raising no objection stating the change of use will not lead to a detrimental impact on the wider highway network.
- 7.14 There is vehicle and cycle parking available for the units, which complies with the Havant Borough Parking Standards SPD and DM14 of the Havant Borough Core Strategy (2011).

8 Conclusion

- 8.1 The retrospective works relating to the garage extension, shed and boundary wall are considered to be inkeeping with the character of the area and would not have an adverse impact upon the surrounding neighbouring properties.
- 8.2 The retrospective extraction flue in connection with the Class B2 use has a significant and demonstrably harmful impact on the surrounding neighbouring properties due to fumes and smell, contrary to Policy CS16 of the Havant Borough Core Strategy (2011) and the advice in the National Planning Policy Framework in paragraph 130. As a result, this application has been recommended to be refused.

9 RECOMMENDATION:

*That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/22/00771*

- 1 The retrospective extraction flue in connection with the Class B2 use has a significant and demonstrably harmful impact on the surrounding neighbouring properties due to fumes and smell, contrary to Policy CS16 of the Havant Borough Core Strategy (2011) and the advice in the National Planning Policy Framework in paragraph 130.