

5 Statutory and Non Statutory Consultations

No consultations have been carried out in association with 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: 18

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 2

Summary:

Objection - previously objected to last application refused in 2004 04/58256/001.

Noise, pollution and disruption at the site.

Living next to an industrial estate.

Comment:

These concerns are noted, however, the application needs to be considered against the tests for a Certificate of Lawfulness and in this case the planning merits of the activities taking place cannot be considered.

Summary:

This site has been in use for many years however activity was always limited and it seemed to be solely used for horse boxes and coachworks. Over the last couple of years the site seems to have changed with a wider range of vehicles and business types entering and leaving the site, these include automotive related businesses and construction related businesses such as scaffold lorries etc. This has also lead to a substantially increased frequency of vehicle movements. Whilst I would support the certificate of lawfulness for the site as a coachworks / horse box centre on the grounds of continued use over a number of years, I do not believe this is the case with the more general uses that have developed over recent years. I feel that if the certificate of lawfulness was for a more general use it will open the way for the use of the site as an industrial area which I believe would be considered in appropriate, but at the least should be subject to a planning application to assess the suitability of the site and surrounding infrastructure for this purpose.

Comment:

This evidence will be considered in part 7 together with the evidence submitted with the application and the Councils own evidence.

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) The Evidence Produced in relation to the matters applied for during the relevant 10 year period from the 29th October 2005 until 29th October 2015 (the validation date). This evidence includes both evidence in support of the Certificate being granted and third party evidence in opposition to the Certificate.

Listed below is the evidence documents/files produced on behalf of the applicant for the Certificate:

Plan and List of Uses submitted with the application (covering red and blue edged land)

A location plan has been submitted which is numbered and a schedule of uses has been provided. These are listed as:

1. 05/58256/002 - CLU approved for residential mobile home
2. Stable yard
3. Hayling Truck Centre (Horsebox and Coachworks Business)
4. London Road Motors - vehicle storage
5. All Hours Drainage - vehicle storage
6. Hayling Truck Centre - (Horsebox and Coachworks Business - Workshop)
7. Hayling Truck Centre - parking and open storage
8. CSA Scaffolding - vehicle storage and ancillary open storage
9. Home Farm private garages, stables and tack room
10. Access Road constructed in early 1980's - Enforcement Notice - 30/09/1983
11. Agricultural grazing land
12. Sibleys Transport (previously Farlington Freight) storage and parking
13. Proposed landscape bunds to screen public views of activities at the site

Officer Comment - The uses of different areas of the site will be considered in detail below and it is noted that further changes to the companies operating on site have taken place since this list was made.

Planning Statement (Summary)

From 1984 Mr RW Ruffell and Mr M Radford - joint owners of the land the subject of this application for a Certificate. From September 2002 land ownership transferred to Mr Ruffell.

15th September 1994 Planning Permission Granted for continued use of part of the land for keeping of horses including the construction of stables.

Since 1994 the land and hardstandings located to the rear of 132 Havant Road have been in use for open storage, parking, loading, unloading and turning of large vehicles. Mr Ruffell commenced his Horsebox and Coachworks business in 1993 which continues to the present day.

From date of Mr Ruffell's sole ownership 2002 the extent of the commercial activities and use of land intensified and has continued throughout the period without a break to the present day i.e. 12-13 years.

Scale of commercial activity can be examined by studying Google Maps Aerial views (dated 22nd April 2015, 19th October 2011, 21st April 2007, 11th December 2004, 31st December 2005 and 31st December 2001) and for comparison 31st December 1999.

Access road apparently discussed with Council Officer in November 2004 at which time it was asserted that the Council had decided not to take action regarding the Breach of the 1983 Enforcement Notice as it did not affect the access road.

In 2005 the Council granted a Certificate of Lawfulness for the caretakers residential mobile home (05/58256/002) which suggests conclusive evidence presented at that time to secure at least 4 years continuous use.

Officer Comment: Caretaker use not specified in Certificate granted.

Applicant considers that the use of the subject land escalated between 2003 and continues to the present day.

Mr Ruffell understands the appearance of site when viewed from Havant Road could be visually improved. Plan schematically illustrates a new mound which could be suitably landscaped to provide a visual and attractive screen. Would appreciate LPA's observations on this proposal which if it is accepted would require the prior grant of planning permission in the event that a CLU is supported by the LPA.

Officer Comment: The possibility of a bund cannot impact on the consideration of an application for this Certificate of Lawfulness which is based on the consideration of the uses taking place over the relevant 10 year period. A separate planning application would be required in relation to the provision of a bund.

Sworn Statutory Declarations:

Statutory Declarations have been made by individuals as set out below (Comments Summarised):

1. Andrew George Davies - Director Truck and Plant Sales Ltd and previously sole trader status, trading as Andrew Davies Cars

Have stored vehicles at premises and work done on my vehicles in yards 4, 5, 7 & 8

2. David Morley - B M F Burton

Since 1999 to present have been at premises for variety of reasons - break down recovery, repair work horsebox body build, horsebox body transfer to another chassis & Storage

3. Paul McGrath - Businessman

Parked vehicles in areas marked on map for Hayling Truck Centre (3, 5 & 6) - no dates provided. Aware of Commercial activity, storage, repairs, truck building.

4. Brad Palmer - of B P Logistics

Business has used land 7, 8 on the plan for 12 years for storage of trailers, containers and commercial vehicles.

5. Steve Guest - of All Hours Drain and Plumbing Serviced Limited

AHD&PS Ltd in occupation for last 15 years but have parked for last 5 years in area 5. Rented the site to park our vehicles at different times of working day.

6. Bill Dixon - Ashford Commercials

Buying/Selling vehicles with Mr Ruffell at above address for last 12 years. Also spray and repair work.

7. C M Callaway - Robin Sparshatt & Associates Commercial Vehicle Body Builders

Used yard facility for parking and storing of removal trucks for over 15 years. Use workshops for repairing and spraying.

8. Peter Pullen - Mechelec (Fareham) Ltd Garage Services

Used yard to park and store vehicles for over 15 years. Use workshops for repairing and spraying.

9. Robert Mair - Alpha One Building Services

Occupation 13 years parked in 6, 8. Off road parking + 20ft Sea Container.

10. Mathew Rees - CVE London Ltd Commercial Vehicle Exports

For past 12 years used site to park vehicles waiting to be exported. Paintwork & mechanical work carried out. Purchased and sold vehicles.

11. I Nichols - County Commercial Ltd

Occupied part of land from 2000. Different parts of land over 15 years. Observed a number of activities undertaken. Horsebox and Coachworks since 2000. Also introduction of additional open vehicle storage by a number of companies all operational for at least 10 years.

12. S Briggs - S Briggs Commercial Sales

Since 2000. Knowledge of parking there, work undertaken and we have brought and sold trucks, stored and repaired and painting of vehicles. Throughout our occupation at yards 4, 5, 7 and 8.

13. Mark Hyde - Polo Manager

Bays 4 and 5 work done on our lorries, lorries left months at time.

14. Graham Pedelty - Grahams Scaffolding

In area 7, this has been arrangement since 2000 and continues.

15. Graham Martin - Martin Brothers Commercial Repairs

3, 4, 5, 7 and 8 Engaged on electrical and mechanical work for Mr Ruffell of Oaktree Horseboxes and Hayling Truck Centre.

16. Mark Battye Managing Director Trojan Cars

Trojan Cars rented lots 4, 5, 7 & 8 since 2003, 1-15 cars on site

17. A Murphy - My company AJ and MJ Plant Sales Ltd

Continuously occupied part of the land since 1995 to present - varied areas of the land allocated for companies use including 4, 5, 8, 12.

18. Daniel Stuart Dennis - Equestrian Fencing Services

4, 5, 12 for 12 years for maintaining commercial fleet of vehicles.

19. Daryl Silvar

Worked in the 'shop' at area 6 for last 12 years.

20. Christopher John Carter

Live on site in mobile home 1

21. Richard Gould - of G & H Vehicle Services

Worked on vehicles at 132 since 1994. Work for Mr Flannigan; Ant Scaffolding, Mr Ruffell and Hayling Horseboxes

22. Gary Brown - Previously of Combined Insurance Inspection Service

CIIS occupation 2003- Dec 2014 containers 7 and 8 - overflow of TVs.

23. Keith Palmer - B P Logistics

B P Logistics use since 2000 Deliver and collect HGV trailers

24. Martin Ruffell - Director Farlington Freight

Storage of trailers for 5 years

25. Arthur Stephen Porter - W Sibley & Sons Ltd

Storage of trailers on regular basis - no dates

26. Michael Stanbridge - M J S Vehicle Contractors Ltd

Since 2001 work on lorries

27. Ann Ruffell (Wife of Applicant)

14 years occupied property and yard 4, 5, 6 Business premises 25 years

28. Roy Ruffell (Applicant)

14 years occupied property and yard 4, 5, 6 Business premises 25 years

Evidence from HBC site visits

The application essentially states that there were a number of users of the site at the time of the application these include:

Hayling Truck Centre (Horsebox and Coachworks) - This is a long established business at the site and it is considered that the use can be demonstrated over the relevant 10 year period for part of the application site (the areas where this use is established will be considered further below). Coachwork could refer to the body of a car or other vehicle, especially the outside painted surface. It is not considered that this general definition is applicable to the Horsebox vehicle works that have taken place over the 10 year period. It is therefore proposed to limit the 'coachwork' element to these vehicles.

London Road Motors (Vehicle Storage) - Car storage place (open) is considered to constitute a B8 (Storage and Distribution Use) use. At a site visit on the 18th June 2015 Mr Ruffell stated that London road Motors had been on site for approximately 3 years.

All Hours Drainage (Vehicle Storage) - Appears to be used an operations centre with vehicles in regular use.

At a site visit on the 18th June 2015 Mr Ruffell stated that All Hours Pumping had been on site for approximately 4 years.

CSA Scaffolding (Vehicle storage and ancillary open storage) - Scaffold erection firms storage and distribution place is considered to be a B8 use.

This is a different scaffolding Company than those on site at the officers site visit on the 11th January 2016 (at this visit SCA Group Building Co and ANT Scaffold were on site).

At a site visit on the 18th June 2015 Mr Ruffell stated that SCA had been on site for approximately 6 months and ANT Scaffold for approximately 3 months.

Sibleys Transport (previously Farlington Freight) are also mentioned, however the area shown appears to be occupied by SGS.

At a site visit on the 18th June 2015 Mr Ruffell stated that SGS had been on site for 2-3 years.

In addition the following uses were observed at the site visit of the 11th January 2016:

Cozy Logs - Logs cut and stored on site (use anticipated by Mr Ruffell to cease shortly) - Log sawing place is considered a B2 use a timber store is a B8 use.

At the site visit on the 18th June 2015 Mr Ruffell stated that Cozy Logs had been on site 2.5 to 3 years.

Lawrence Warner (Vehicle Storage) - Car storage place (open) is considered to constitute a B8 (Storage and Distribution Use) use. At a site visit on the 18th June 2015 Mr Ruffell stated that Lawrence Warner had been on site for approximately 4 months.

On 14th May 2014 an Enforcement Complaint was received in relation to London Road Motors and Hayling Truck Centre operating on the site. This appears to mark the point where additional commercial uses began to commence at the site following the longer established Horsebox and Coachworks business. This led to a site visit to investigate the uses taking place on site.

At a site visit of 29th August 2014 the following commercial uses were observed:

Horsebox and Coach Works

SCA Group - Scaffolding

ANT Scaffolding

All Hours Drainage

Curtis Scaffolding

Cozy Logs

Car Storage

Aerial Photos

The agent has provided aerial photographs of the site and these are briefly addressed below in relation to the relevant 10 year period from 2005:

2005:

Photo shows horse box operation and two buildings in situ on the site including area 7 on the agents plan (although the intensity of the use was less in this area). There is no evidence of the other uses claimed in my view.

2007:

As above but with consolidation of use of area 7 with hardsurfacing provided. 1 unidentified yellow vehicle on site.

2011:

Poor quality photo, fails to demonstrate other uses on site in my view.

2015:

Evidence of car storage on site, scaffolders x 2, possible log area and drainage vehicles.

It is considered that the aerial photographs support the position that on the balance of probabilities the Horsebox / limited Coachworks business has operated on parts of the site for the relevant 10 year period, however the other uses did not arrive until after 2007 at the earliest.

Third Party Evidence:

The evidence summarised above strongly suggests that the types of activity at the site have changed. The comments include the following:

In the last couple of years with a wider range of vehicles and business types entering and leaving the site these include automotive related businesses and construction related businesses such as scaffold lorries etc.

This has also lead to a substantially increased frequency of vehicle movements.'

8. The Evidence/Conclusion:

The application is being considered under section 191 of the Town and Country Planning Act 1990. It is necessary to consider whether on the balance of probability the uses applied for have been demonstrated over the relevant 10 year period from 29th October 2005 to 29th October 2015. It is for the applicant to provide the necessary evidence to demonstrate that the uses are lawful.

Horse Box and Coachwork Business

It is considered that the evidence suggests that this business has been operating for the 10 year period on parts of the site. The Coachwork Business has related to work to Horse Boxes and the associated vehicles and not a more general Coachwork business that can be defined more widely as *'the body of a car or other vehicle, especially the outside painted surface'* (Cambridge Advanced Learner's Dictionary & Thesaurus). It is therefore proposed to limit the business use to:

Horse Box and associated Coachwork - relating to horse boxes and associated vehicle alteration, maintenance and repair.

The whole site has not been in continuous use over the 10 year period for the above purpose however as other non-associated uses have taken place on part of the site. Therefore these areas are to be excluded from the Certificate of Lawfulness.

Hardstandings for Open storage

Whilst hardstandings appear to have been in place over the 10 year period it is not considered that an open storage use has been established over the site area.

Vehicle Parking

General vehicle parking is not considered to have been demonstrated. The current uses of car parking in association with London Road Motors and Lawrence Warner are not on the balance of evidence considered to have been established on site for the required 10 year period.

Commercial Activities

These are not clearly defined in the application, however, the various uses taking place, All Hours Drainage, CSA Scaffolding, ANT Scaffolding, Sibleys Transport, Cozy Logs etc have not on the balance of evidence been demonstrated to have operated on site continuously over the relevant 10 year period.

Loading and Unloading by a number of companies

Again this claim is poorly defined in the application. In terms of the certificate it is the uses that need to be considered. The Horse Box and associated Coachworks business has been demonstrated to be established over part of the site for the 10 year period, the other uses are not considered to have been established.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/15/01234 as follows:

1. It appears to the Local Planning Authority on the balance of probability that the uses described in the First and Second Schedules and plan attached to this Certificate, as modified by the Local Planning Authority have taken place for a continuous period of at least ten years up to the date of the current application.

The Authority has considered evidence and additional information submitted by the applicant, representations received in response to the Certificate of Lawfulness application and aerial photographs.

FIRST SCHEDULE:

This Certificate relates to the following uses or operations:

(i) for the provision of Horse Box and associated Coachwork business.

In association with (i) above, the use/operation in the area edged red on the attached plan A is considered to have been demonstrated over the relevant 10 year period.

The use/operations demonstrated are for activities associated with the Horse Box business and the Coachwork relates to work to Horse box and Horse box related vehicles only.

The works associated with the business relate to the modification, repair and maintenance of the Horse Boxes and associated vehicles.

SECOND SCHEDULE:

For the purposes of the first schedule (i) above, this relates to the land edged red on the attached Plan A at Land Adjacent to, 132 Havant Road, Hayling Island.

Definitions:

Horse box:

A lorry, van or trailer used for carrying horses

Associated Coachwork Business:

Business related to the modification, repair and maintenance of Horse boxes and associated vehicles.