
Site Address: Unit 2, 24 Palmers Road, Emsworth, PO10 7DL
Proposal: Change of use of Unit 2 to mixed use; retention of ground floor use class B1(c) and change first floor use to Tattoo Parlour (sui generis); amendment to Planning Permission APP/10/01024 to allow Tattoo Parlour to open on Sundays between 10am to 4pm.
Application No: APP/13/00786
Applicant: Mr Carter
Agent:
Ward: Emsworth

Expiry Date: 30/10/2013
Team: Team 2
Case Officer: Richard Nash

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site comprises the southern half of an industrial building (with planning permission for class B1(c) use) located on the east side of Palmers Road. The site is located within Emsworth District Centre as identified in the Saved Policies of the Local Plan, but outside of the Centre in the emerging Allocations Plan (but in any case the proposal has no impact in terms of retail considerations). There are a range of land uses in the locality, with further commercial buildings along the east side of the road, high density residential dwellings opposite and a gas holder a little to the north.

2 Planning History

06/66796/001

Replacement industrial unit. Approved.

APP/10/01024

Demolition of annex, replacement of existing metal profiled roof covering and sub-division to form 2 No. smaller industrial units. Approved.

APP/11/01508

Installation of new windows to front elevation. Approved.

APP/12/00398

Application for non-material changes to Planning Permission APP/10/01024 relating to cladding, roller doors and roof lights. Approved.

3 Proposal

The current application has been submitted retrospectively and proposes the retention of a mixed use of the premises, comprising a B1(c) use at ground floor level and a sui generis Tattoo Parlour use of the first floor. An amendment to Planning Permission APP/10/01024 is also proposed, in order to allow the Tattoo Parlour to open on Sundays between 10am and 4pm.

4 Policy Considerations

National Policies

National Planning Policy Framework

Core Strategies 2011 forming part of the HBLDF

CS16	(High Quality Design)
CS2	(Employment)
DM10	(Pollution)
DM3	(Protection of Existing Employment and Tourism Sites)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health Manager:

No objections to retaining the use of the tattoo studio, or for it to open on a Sunday. Would however raise concern if other businesses on the estate were to be permitted to operate on a Sunday, bearing in mind this is a day off from the noise for the residents in the vicinity.

Development Engineer:

This site has limited parking, so the majority of client parking will be in the adjacent public car park. The surrounding highway has TROs that control indiscriminate parking - therefore this can not be refused on highway safety grounds.

Regeneration & Development:

None received.

Crime Prevention:

No comments.

Building Control (Fire Access Consultation):

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: 10

Number of site notices: 1

Statutory advertisement: Not applicable

Number of representations received: 2

Summary:

(1) Planning permission should be refused with regard to the Sunday opening hours of 10am to 4pm as this is contrary to working hours for all other units in Palmers Road. Therefore could set a precedent that would be unacceptable to residents, as Sundays are the only days of quiet.

(2) No objection to tattooist working within closed area but concerned about precedent for other more pollutant uses operating on Sundays.

Comment:

The impact of the proposal on neighbouring amenities is discussed below.

7 Planning Considerations

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 on neighbouring amenities

(i) Principle of development

Core Strategy Policy DM3 states that the change of use of premises used for B use class employment purposes to non-B use class employment should only be permitted where it has been demonstrated that the premises are not fit for purpose and financially unviable for B use class purposes. The application does not provide any evidence to suggest this is the case here, but is somewhat unusual in that the sub-letting of the first floor of the unit contributes (financially) to supporting the continued B1(c) use of the ground floor. In any case, Policy DM3 goes on to say that where a site is no longer suitable for B use class employment, then other types of economic development should be considered in the first instance. These uses should provide employment opportunities of a similar quality and quantity as those which they replace.

In this case, the Applicant, whose B1(c) business occupies the ground floor, has no need for the additional floor space offered by the first floor. The first floor area was shown as a storage area on the drawings approved under reference APP/10/01024. This area is accessed via an enclosed staircase from the ground floor of the premises and is also somewhat limited in terms of floorspace and headroom. As such it would not lend itself well to a separate B class occupier and would therefore be likely to sit vacant if such use was insisted on at this time.

By contrast, permitting the sui generis use would in this case not only support the continued operation of the B1(c) use at ground floor, but would also allow an Emsworth resident to continue to operate their own small-scale business from a local site, to which they have relocated from employment in Southampton. Therefore, although it could be argued that there is a partial conflict with Policy DM3 in this case, it is considered that approval of the application would assist in supporting two small scale business that might otherwise fail or need to relocate. It is considered that in these particular circumstances, provided the proposed mixed use is personalised, the long term Policy position would not be compromised through approval of the application.

(ii) Impact on neighbouring amenities

The Class B1(c) element of the proposal is permitted in principle by an extant planning permission and should not result in any additional impact on neighbouring amenities. The tattoo parlour is already in place and does not appear to have caused any particular disturbance to neighbouring amenity, as the representations received

appear concerned with the principle of allowing Sunday hours of operation across this and adjoining commercial units, rather than the current use per se.

The applicant and the operator of the tattoo parlour have explained that the latter is advertised on line and through social networking sites - there are no large advertisements to attract 'walk in' customers. The majority of potential clients tend to work from Monday to Friday and the hours of operation imposed by the planning permission granted under APP/10/01024 are limited to 7.30am to 6pm on Monday to Saturday, which somewhat limits the opportunity for evening appointments. This results in a larger demand for weekend appointments and the operator sees the opportunity for Sunday appointments as essential to maintaining a sufficient degree of income to allow the business to continue trading.

The equipment used in the business is of an unobtrusive nature and the obscuring, double glazing and fixing closed of the windows facing the nearest residential properties is protected by a condition attached to planning permission APP/11/01508. There have been no objections to the proposal specifically relating to noise and the Environmental Health Officer (EHO) has not objected to the retention of the tattoo parlour use.

The operator of the tattoo parlour does not employ anyone else in the business and customers visit on a one-by-one appointment basis. There have been no objections to the proposal specifically relating to parking problems. The Highway Engineer is of the view that the majority of parking will be in the adjacent public car park, and the surrounding highway has Traffic Regulation Orders in place to control indiscriminate parking.

Given the relatively very low-key impact of the proposed sui generis use, and the advice of the EHO, it is considered that the operation of the tattoo parlour between the hours of 10am and 4pm on a Sunday would be unlikely to result in an unacceptable degree of impact on neighbouring amenity. This is however purely due to the specific means of operation of this particular business and, as such, would not set any precedent for hours of operation for other businesses in the area. Given this, the B1(c) element of the proposed mixed use should continue to be restricted to the previously permitted hours of operation.

8 Conclusion

The use of the premises for B1(c) purposes at ground floor and a sui generis tattoo parlour at first floor, with the latter being allowed to operate on Sundays between 10am and 4pm, would not compromise Local Plan policy aimed at protecting employment land and would not have an unacceptable degree of impact on the amenities of occupiers of neighbouring properties. The planning application should therefore be approved.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT PERMISSION** for application APP/13/00786, subject to the following conditions:

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

Letter from Mr R Cushion dated 19 August 2013

Location Plan
First Floor Plan

Reason: - To ensure provision of a satisfactory development.

- 2 The B1(c) ground floor use granted by this permission shall enure for the benefit of Mr B Carter only and shall not enure for the benefit of the land and the mixed use hereby permitted shall be discontinued on the date when Mr B Carter ceases to occupy the land.
Reason: The planning permission has taken particular account of the operation of this business when having regard to Policy DM3 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 3 The Sui Generis use granted by this permission shall enure for the benefit of Mr R M Cushion only and shall not enure for the benefit of the land and the mixed use hereby permitted shall be discontinued on the date when Mr R M Cushion ceases to occupy the land.
Reason: The planning permission has taken particular account of the operation of this business when having regard to Policy DM3 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 4 The Class B1(c) use hereby permitted shall not open to the public except between 07.30 hours and 18.00 hours on Monday to Saturday and not at any time on Sunday or any recognised Bank Holiday.
Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 5 The Sui Generis use hereby permitted shall not open to the public except between 07.30 hours and 18.00 hours on Monday to Saturday, and between 10.00 hours and 16.00 hours on Sunday or on any recognised Bank Holiday.
Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.