

DELEGATED OFFICER REPORT

PROPOSAL	Change of use from temporary B2 to Class E
LOCATION:	1 Industrial Estate, Palmers Road, Emsworth, PO10 7DH
REFERENCE NO:	APP/25/00700
APPLICANT:	Mrs Sharon Wotherspoon
APPLICATION TYPE:	Full planning permission
CONSULTATION EXPIRY DATE:	05/11/2025
APPLICATION EXPIRY DATE:	24/11/2025
WARD:	Emsworth
SUMMARY RECOMMENDATION:	Refuse

PLEASE NOTE THAT THE LOCAL PLANNING AUTHORITY DISAGREE WITH THE AGENTS DESCRIPTION OF DEVELOPMENT ABOVE AND HOLD A DIFFERENT PROFESSIONAL OPINION – PLEASE SEE SECTION 3 FOR FURTHER CLARIFICATION.

1. Site Description

- 1.1 The application site relates to an existing industrial unit located on the east side of Palmers Road, which is characterised by industrial uses. Unit 1 is the most northerly industrial unit in a block of 6 units originally granted planning permission in 1981 (29347/2 refers) as light industrial units (formerly B1, now Class E(g)), having an hours of use condition limiting the use of machinery to between 8.30am and 6pm Monday to Friday and 8am to 1pm Saturdays. The floor space of the unit amounts to approximately 120 sqm.
- 1.2 The unit itself has a front elevation of part dark red brick and dark brown cladding with a large roller shutter door. There is an office with pedestrian door at the southern end of the front elevation. The unit is set back slightly from the highway having a tapered forecourt, sufficient for 1 vehicle to park without overhanging the highway. There are double yellow lines immediately outside and, on the opposite, western, side of the road there are some parking spaces with resident only restrictions, or 45 minute limit for the public. The application site also has a small rear yard with rear vehicular access via a shared rear service and parking yard. Within that rear yard this unit has 2 dedicated spaces, one directly to the rear of the unit and one across the yard, adjacent the eastern boundary of the site.
- 1.3 The application site unit was granted planning permission in 2015 for a change of use to Class B2 (General Industrial) for motorcycle repairs (APP/15/01025 refers). That permission had a personal condition, limiting the occupiers to JCB Motorcycle Services only, who operated from the premises until 30th November 2024. Therefore, the current lawful use of the premises is for B2, but that can only be exercised by JCB Motorcycles, so any alternative B2 user would need to either vary or remove this condition.
- 1.4 The other units to the south are in use for car repair and tyre type uses (B2). The unit to the immediate north is in use as a swim studio (Class F2). However, opposite the

site, the west side of Palmers Road is primarily residential in character and hence the area is very mixed, with 'conflicting' uses directly opposite each other. The terrace of residential dwellings, No. 4 - 16 Palmers Road, have small front forecourts and rely on resident permit parking in the road in front.

- 1.5 The application site falls just outside the defined District Centre of Emsworth, the boundary of which includes the residential properties opposite and the shops and business fronting North Street. The site lies in Flood Zone 1 but is identified as at risk from Surface Water Flooding on the new Environment Agency's maps.

2 Planning History

29347/2 - original planning permission for 6 industrial units granted 26/11/1981- with conditions including 5. for light industrial purposes only; 6. no goods, plant or material stored in open; 7. machinery shall only be worked between 8.30am - 6pm Mon to Fri and 8am - 1pm Saturdays

97/62652 - 2.3m gates & 2m fence to west. Permit 26/1/98.

99/63942 - first floor rear extension supported on pillars Permit 12/4/99.

APP/14/00669 - Change of use from B1 to B2 use for motorcycle repairs. Temporary Personal Permission granted 03/10/2014 for 12 months ending on 03/10/2015 with conditions limiting the hours during which machinery could be operated; limiting the use of the front forecourt and rear yard; and requiring internal bi-folding doors to be installed.

APP/15/01025 - Variation of Condition No. 1 of Planning Permission APP/14/00669 to enable continued change of use of premises from Class B1 to Class B2 use for motorcycle repairs. Permitted 27/11/2015 with conditions including: personal to JCB Motorcycles Services, hours of machinery conditions (between 0830 and 1800 Mon to Fri and 0800 to 1300 Sats only).

APP/25/00113 - Application for change of use from B2 to E retail for use as a store selling pet food and products. Associated works including the installation of double glazed window and door to front elevation. Refused 18/08/2025 for three reasons:

1. Lack of sequential assessment, contrary to policy CS4 & AL3
2. Loss of employment site with lack of marketing evidence, contrary to DM3 and W3
3. Out of character with the area, contrary to policy CS16

Current outstanding Appeal against this refusal – AP-0361

3. Proposal

- 3.1 Change of use from temporary B2 to Class E

- 3.2 The above description of development is at the request of the agent who believes that the planning history and imposition of condition 2 on APP/15/01025 means that following JCB Motorcycle Services departure in November 2024, the unit reverted to its former Class B1 use. The agent is of the opinion that the B2 consent only enured for JCB Motorcycles Services, and the consent did not expressly provide for a broad B2 use, as it was limited to only JCB Motorcycles Services. It the agent's opinion that the B2 use was therefore only "temporary".

- 3.3 However the LPA hold a different view and consider that the lawful use of the premises is Class B2 on a *permanent*, not temporary, basis. The LPA sought legal advice on this matter when determining APP/25/00113 and that advice was clear that the lawful use of the appeal site is and remains B2, but the personal condition means that it is only JCB Motorcycles that can exercise the B2 use. Any other B2 user would not result in a material change of use of the unit requiring planning permission, but they would need to vary the personal condition. Any other light industrial use, or Class E use, would be a material change of use requiring planning permission.
- 3.4 Notably the proposed development is seeking an unfettered Class E use and is not proposing a single use, as in the last application on the site where APP/25/00113 specifically sought a Class E retail only use for the sale of pet food and products. Therefore, the determination of this application must consider all the various uses within Class E, which are as below:

Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*
- (c) for the provision of the following kinds of services principally to visiting members of the public—*
 - (i) financial services,*
 - (ii) professional services (other than health or medical services), or*
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,*
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,*
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,*
- (f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- (g) for—*
 - (i) an office to carry out any operational or administrative functions,*
 - (ii) the research and development of products or processes, or*
 - (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.*

- 3.5 The application form indicates that the opening hours for any of these uses would be from 9:00 to 17:00 Monday to Saturday; and from 10:00 to 16:00 on Sundays and Bank Holidays. It is also noted that there is no associated operational development proposed with this application and the existing roller shutter doors at the front of the site would remain in situ.

4. Policy Considerations

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Employment Land Review September 2024

Havant Borough Local Plan (Core Strategy) March 2011

CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS4	(Town, District and Local Centres)
DM3	(Protection of Existing Employment and Tourism Sites)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)
DM14	(Car and Cycle Parking on Development (excluding residential))

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
AL3	(Town, District and Local Centres)
DM18	(Protecting New Development from Pollution)
DM21	(Shopfronts, Signs, Security Shutters and Advertisements)
DM19	(Small Shops outside Town, District and Local Centres)

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_W3	(Change of Use Applications)
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Draft Building a Better Future Plan

The Draft Building a Better Future Plan was approved for consultation by the Borough Council's Cabinet on 5 March 2025. Alongside the Draft Building a Better Future Plan, the Council has also published a number of evidence base studies which have informed the plan's development strategy and detailed policies. The council has recently consulted on the Draft Building a Better Future Plan under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The following draft policies are of relevance to this application, however at this time only minimal weight can be given to these, in line with government policy at paragraph 49 of the NPPF 2025.

Policy 1: Spatial Strategy

Policy 2: Defined Urban Areas

Policy 6: Amount of Employment

Policy 10: Supporting a Strong and Prosperous Economy

Policy 12: High Quality Design

Policy 38: Protecting Employment Uses

Policy 39: Town, District and Local Centres

Policy 40: Local Shops Outside of Designated Centres

Policy 41: Food, Drink and Entertainment Uses

Policy 43: Amenity and Pollution

Policy 47: Accessibility, Transport and Parking

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5. Statutory and Non Statutory Consultations

Emsworth Residents Forum

This application calls for the conversion of industrial premises to retail use which is in direct conflict with Policy W3 of the Emsworth Neighbourhood Plan which stipulates that such a change of use should be permitted only in exceptional circumstances. The purpose of the policy is to retain the industrial employment

base in Emsworth for local workers. No attempt has been made to justify the exceptional circumstances which are required for this proposed change of use.

It is inappropriate for the retail centre of Emsworth to be extended into areas currently outside the recognised retailing area. There is inadequate parking provision in for a retailing use. Whilst there is a car-park within a reasonable walking distance many customers would no doubt choose to park outside the premises, especially if they are purchasing goods in bulk which are heavy to transport.

The current amenity enjoyed by local residents would be damaged were this conversion to take place, with competition for car-parking places as well as new activity on a Sunday during the store's trading hours, since the industrial units on Palmers Road do not normally trade on Sundays.

Environmental Health

No objection from the commercial team environmental health team for this change of use.

Planning Policy

Policy Status

The [Local Plan \(Core Strategy\)](#) and the [Local Plan \(Allocations\)](#), together with the Hampshire Minerals and Waste Plan, form the development plan for the borough. In this area, the [Emsworth Neighbourhood Plan](#) also forms part of the development plan.

The development is for a change of use from Class Use B2 to Class Use E. For the purposes of these comments they therefore apply to all Class E uses listed within the Class Use Order.

Employment

Policy DM3 Protection of Existing Employment and Tourism Sites sets out that the change of use of a premises currently or last used for B use class employment services to non-B class use employment will only be permitted where it has been demonstrated that the premises is not fit for purpose and financially unviable for B use class purposes. It needs to be clearly demonstrated that the site is no longer suitable for B use class. Currently no information has been submitted with the application to demonstrate the premises is no longer need for class B use. If evidence is submitted to support a change in use class to class E use it will need to show that it can provide employment opportunities of similar quality and quantity to those which previously existed.

This will all need to be demonstrated through an active and exhaustive market process covering at least 12 months. The list of details which are required to support that 12 month exercise can be found in the policy. No such information has been submitted therefore the application is currently not compliant with policy DM3.

Food, Drink and Entertainment Uses

Due to the wide range of uses which are now permitted under Class Use E policy DM5 applies to this application. Policy DM5 sets out that planning permission would only be granted for the construction of new entertainment and hot food

uses where the application can demonstrate that criterions 1-7 are met. As it stands no information has been submitted by the applicant to show that the policy criterions have been met. Therefore, the application is currently not compliant with policy DM5.

Emsworth Neighbourhood Plan

Policy W3 states that any application to change the use of land from industrial to other uses will only be granted in exceptional circumstance and where it can be demonstrated that continuing provision cannot be made for industrial or other employment uses on a proportion of the site without harm to residential amenity. Currently no information has been submitted to demonstrate that the policy requirements have been met.

Parking

DM14 states that development will only be permitted where it provides parking for cars, motor cycles and cycles in accordance with the relevant standards. Such parking must be appropriately located in relation to the development and be practical for its intended use. The applicant will need to demonstrate that the application is in line with our parking standards within the parking SPD.

Conclusion

The applicant has not submitted the information required to show it has addressed the policies set out above. Therefore, the application is currently not compliant with policy within the adopted local plan and the Emsworth Neighbourhood Plan and therefore there would be an objection in principle.

Economic Development

None received

6. Publicity and 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: 20

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: **10**

7 identical/similar letters of objection have been received; and 3 individual letters of objection have been received:

Objection Summary

We object to planning application APP/25/00700 on the grounds of uncertainty regarding the proposed use, the potential for increased noise, traffic, and general disturbance, and the resulting loss of residential amenity. While we recognise that this is a new application that must be assessed on its own merits, the previous refusal (APP/25/00113) and the associated ongoing appeal remain highly relevant to the site's planning history and context.

1. Reaffirmation of Previous Objections for APP/25/00113

We reiterate the concerns outlined in Palmers Road Statement 001/2025 including but not limited to:

- A key policy within the Neighbourhood Plan—Policy W3—makes explicit the community's intent to safeguard all existing industrial land in Emsworth.
- Significant harm to residential amenity through increased noise, disturbance, and extended operating hours for out-of-town retail.
- Lack of robust supporting evidence regarding traffic and noise impact.
- Heightened pressure on limited on-street parking and increased road safety risks.
- The ongoing, incremental erosion of the long-established residential environment and quality of life for existing residents.

These concerns remain unresolved and are directly relevant to the current proposal.

2. Scope of Proposed Use – Overly Broad Class E

The most significant change in this application is the request for general Class E use, rather than the Class E(a) retail-only use sought in the previous, refused application. Although described as “general Class E,” the appellant's current business model is clearly high-street retail to the public and this application directly conflicts with the previous refusal for Class E (retail) use and risks undermining that decision, as no meaningful change in operation justification is evident.

This broad classification creates substantial uncertainty about the type and intensity of future operations at the site. Class E encompasses a wide variety of uses, including indoor recreation, health services, cafés, restaurants, and other commercial activities — many of which may generate significant noise, weekend, public holiday and late-night activity, or traffic, which are not suitable within a small residential setting.

Granting unrestricted Class E consent would therefore remove necessary planning control and allow potential changes of use without further public consultation or environmental assessment. This is contrary to the principles of transparent and community-led planning embedded in the Emsworth Neighbourhood Plan (Policy W3) and Havant Borough Local Plan policies that seek to maintain the balance between residential and commercial activity.

Unrestricted Class E use would, in effect, permit future intensification of activities incompatible with the surrounding homes, potentially resulting in cumulative harm over time.

3. Noise, Traffic, and Parking Impacts

The proposed development is likely to increase vehicular movements, delivery activity, and parking demand on Palmers Road, which already experiences congestion and limited on-street capacity.

No substantive evidence has been provided to demonstrate that these issues have been mitigated or that adequate provision has been made for staff and customer parking. In addition, increased out of current restricted hours activity could result in higher levels of noise and disturbance to nearby dwellings.

Without a clear operational statement or restriction of use, the proposal fails to meet Policy DM10 of the Core Strategy to safeguard the amenities of the residents of Palmers Road.

4. Compatibility with Local Character

Palmers Road, predominantly residential street characterised by long-established homes. The introduction of a flexible commercial unit with unrestricted Class E permission risks altering the long-term residential character and setting a precedent for other industrial units changing use and extending hours of operations.

Such a change would conflict with the Emsworth Neighbourhood Plan, which explicitly seeks to protect residential amenity and promote sustainable, context-sensitive development.

5. Community Relations and Public Confidence

Prior to the hearing of the previous refusal (APP/25/00113), several hostile and inflammatory comments appeared on the appellant's public social media channels. These posts, now removed, were made by the appellant and individuals purporting to be customers or supporters.

These comments have created a climate of intimidation and anxiety among nearby residents. In our view, they indicate that an amicable relationship with the residents is no longer possible by the appellant.

We believe the local authority have a duty of care to existing residents and must consider the long-term social impacts and potential for future conflict if the appeal is allowed.

6. Planning History and Cumulative Impact

The local planning authority previously refused APP/25/00113, citing concerns regarding amenity and the suitability of the proposed use. That decision, and the ongoing appeal, are material considerations that should inform the assessment of this new application.

While the appellant may seek to present this as a fresh proposal, the fundamental issues — namely, the incompatibility of the intended use with the surrounding residential area, and the absence of clear mitigation — remain unchanged.

Repeated applications of a similar nature risk creating uncertainty and planning fatigue among local residents, while diverting council resources.

7. Conclusion

In summary, we respectfully request that the Planning Committee refuse application APP/25/00700 on the following grounds:

1. Unacceptable uncertainty arising from the unrestricted Class E use, which could lead to activities incompatible with the surrounding residential environment.
2. Adverse impact on residential amenity, including increased noise, traffic, and disturbance.
3. Insufficient evidence to demonstrate that parking, traffic, and noise impacts have been adequately mitigated.
4. Conflict with local planning policies, which prioritise protecting residential character and amenity and changes away from industrial use.
5. Erosion of public confidence and community cohesion, resulting from previous conduct and the cumulative planning history associated with this site.

For these reasons, we urge the local authority to uphold the principles of good planning and refuse the application in order to protect the character, amenity, and wellbeing of the Palmers Road community.

3.1 Misinterpretation of Planning History and Policy Context

The appellant's Statement of Case relies heavily on past planning consents from 2014 and 2015 and asserts that following the departure of JCB Motorcycles, the lawful use of the premises reverted to a former B1 use. However, this interpretation is contestable, especially in light of subsequent changes in planning legislation and local policy.

While it is true that B1 uses were subsumed into Class E from September 2020—which now also includes retail uses—the appellant's assumption appears to be based on a retrospective reinterpretation of planning intentions from over a decade

ago. It is important to note that this assumption does not account for the evolution of local policy, nor does it reflect the policy direction clearly established in the Emsworth Neighbourhood Plan, adopted in 2019.

A key policy within the Neighbourhood Plan—Policy W3—makes explicit the community’s intent to safeguard all existing industrial land in Emsworth, with change of use permitted only under exceptional circumstances. This policy was not imposed unilaterally but was democratically supported through a community referendum, which reinforces its weight in decision-making.

Given that the Neighbourhood Plan was adopted after the 2014 and 2015 planning consents and represents a more recent and locally endorsed policy position, it is reasonable to argue that Policy W3 should take precedence over older planning permissions. The intent of this policy was to prevent the incremental erosion of industrial land, and the appeal proposal is incompatible with the objectives of this policy.

3.2 Inappropriate Reference to Swim Maison (Endless Pool Swim Studio)

The appellant references the operations of Swim Maison in Palmers Road as precedent for non-standard business activity in a residential context. This comparison is inappropriate and should carry no weight for the following reasons:

- Swim Maison has not submitted any formal planning application, to date, for change of use or for extended operational hours;
- There is no evidence that such a use is lawfully permitted at that site;
- Any existing breaches of planning control by other operators do not justify further breaches or precedent-setting decisions;
- The reference is therefore irrelevant, misleading, and should be disregarded in the appeal determination..

Have seen how carefully our town has balanced homes, small businesses, and industry. Allowing a change from B2 to Class E use at this site risks upsetting that balance. The industrial estate is meant for working businesses, not general commercial premises that could bring more traffic, noise, and disruption to nearby residents.

Palmers Road is already busy and can be difficult to navigate, especially for older people walking or driving when visiting family. A new Class E use could increase congestion and make the area less safe. I am concerned about the impact this would have on the peace and character of the local residents.

I urge the Council to protect Emsworth’s established mix of uses, residential amenity and refuse this application.

The new planning application, APP/25/00700, is identical to the previous application, bar the remove of the “Retail” from planning application description in reference to the planning class ‘E’. Planning application APP/25/00113 was refused at committee on the following grounds:

- Retail use proposed in an industrial area: The site is outside the designated town centre, which goes against planning policies that aim to keep retail uses within town centres.
- Insufficient sequential assessment: The applicant did not provide enough evidence that they had properly considered other, more suitable town centre locations.
- Loss of employment space: The proposal would remove a B2 industrial unit without justification, in an area where employment space is needed.
- No marketing evidence: There was no report showing that the industrial unit is no longer viable for employment use.

- Harm to local character: A retail shopfront and increased public activity would clash with the industrial and residential nature of Palmers Road.
- Policy conflicts: The proposal goes against several local planning policies (CS4, AL3, DM3, and CS16)

The previous application was refused primarily because it proposed a retail use, Class E, within an industrial unit, Class B2, located outside the designated District Centre of Emsworth. Planning policies, including the National Planning Policy Framework (NPPF) and adopted policies CS4 and AL3, require retail developments to follow a sequential approach that prioritises town centre locations to support their viability. In this case, the applicant did not provide sufficient evidence of having considered alternative, more suitable sites within the town centre of Emsworth or neighbouring towns such as Havant, and therefore failed to meet the sequential test requirements.

The proposal would result in the loss of existing employment floorspace in a well-established industrial area. No justification was provided to support this change, and the absence of a marketing report meant there was no evidence to show that the B2 unit was no longer viable for employment use. This conflicts with Core Strategy policy DM3, especially given HBC have identified need for employment land as highlighted in the 2024 Employment Land Review.

The introduction of a retail unit, including a new shopfront display window, was considered out of character with the surrounding industrial and residential environment of Palmers Road. The expected increase in footfall and public activity would alter the nature of the area in a way that is inconsistent with policy CS16, which seeks to preserve local character.

The new planning application, APP/25/00700, has not addressed any the previous stated reasons for refusal and should therefore again be refused unless evidence to address the aforementioned policy conflicts and other issues are addressed.

In lodging this objection, I ask that the Committee please refer to my objections to Mrs Wotherspoons previous application as my grounds for objection have not altered.

With specific regards to this new application,, I am somewhat baffled by it. Beyond the removal of the Dog Grooming provision, the essence of it does not greatly differ from her previous application.

One of the main reasons for rejection of that previous application was the Committee's acknowledgement that there is insufficient parking at the premises and the anticipation was that customers would indeed park outside the home of Palmers Road residents. As one Committee member put it. its bound to happen when someone wants to buy a heavy sack of dog food. They wont want to carry that back to the car park.

Mrs Wotherspoon has previously claimed that most of her customers would walk to her new premises as they apparently currently do to her existing one. Using her social media page, she sought to prove this via a survey on 02.09.2025.

Of those who replied to the survey, 33% walk, 33% walk and / or drive, 28% drive and 6% are'other' (mobility scooter or power chair). Therefore it is wholly incorrect to claim that most of her customers walk and that therefore there will not be any adverse impact to residents permit only parking bays.

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 and compliance with Policy
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Parking and Highways
- (v) Biodiversity Net Gain

(i) Principle of development and compliance with Policy

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria. As a proposal for an unfettered Commercial, Business and Service use, i.e. Class E, then the assessment and policies relevant to the varying uses differs slightly.

7.3 For instance, the site lies outside the defined Emsworth District Centre identified by policy CS4 of the Core Strategy, and so there is no automatic support in principle for any retail use in this location from policy CS4, or policy AL3 of the Allocations Plan. These policies seek to direct retail uses to the main town centres to support the vitality and viability of those centres.

7.4 The site is however located immediately adjacent the defined District Centre, and within 300m of the Primary Shopping Area (as identified by Policy AL3), and as such is an "Edge of Centre site" as defined by the NPPF. Sequentially the NPPF requires, at paragraph 91 that *"Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."* Paragraph 92 notes that *"when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre."*

7.5 This sequential approach to guiding development to the most appropriate sites is also found in adopted policy DM19 of the Allocations Plan which supports small shops outside District Centres if there are no other suitable or available sites within or on the edge of the nearest centre. This policy is intended to deal with small local shops which provide for everyday shopping needs, such as convenience stores. Since the end user of the application is not known, and it could be a convenience store, then this policy is also relevant to this case. (Previously it was not considered relevant to APP/25/00113 which was for a specialist boutique pet food store, and not an everyday convenience store.)

7.6 The application is not supported by any information whatsoever, and no formal sequential test has been undertaken to satisfy policies CS4, DM19 or AL3, or paragraph 91 of the NPPF. It has therefore not been adequately demonstrated that there are no other sequentially preferable sites within the town centre for any Class E(a) uses. Planning Practice Guidance indicates that *"it is for the applicant to demonstrate compliance with the sequential test, and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission."*

7.7 The proposal also includes Class E(b) uses for the sale of food and drink for consumption (mostly) on the premises i.e. cafes and restaurants. Before any such use

could be found acceptable the criteria of policy DM5 of the Core Strategy would have to be met. This requires submission of details such as extractor equipment to adequately mitigate for odours, as well as refuse details, parking, visual impacts etc. for assessment. No such information has been provided and therefore it has not been adequately demonstrated that policy DM5 has been met.

- 7.8 Additionally, Policy DM3 of the Core Strategy is also relevant to this proposal and relates to the protection of existing employment and tourism sites. Since the LPA consider the lawful use of the site to be for B2 employment purposes, and it is located adjacent other B2 industrial units in an established industrial area, then the protection of this B2 unit to remain available for employment purposes is covered by policy DM3. The relevant part of this policy states:

1. The change of use or 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. 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. These uses will be expected to provide employment opportunities of similar quality and quantity as those which previously existed. Only if another type of economic development cannot be found which provides similar quality and quantity of employment opportunity, will other uses then be considered.

It goes on to require marketing and states:

For both employment and tourism sites this shall be demonstrated through an active and exhaustive marketing process covering at least 18 months for a major site and 12 months for all other sites.

In all cases the marketing process requires as a minimum:

- i) Confirmation by the marketing agent on headed company paper that the premises were appropriately and extensively marketed for the required length of time as set out by the council.*
- ii) Dated photographs of marketing board/s of an appropriate quality, size, scale, location and number, during this time, on the premises.*
- iii) An enquiry log, how it was followed up and why it was unsuccessful.*
- iv) A copy of all advertisements in the local press and trade journals (should be at least four weeks' worth of advertisements spread across a six month period).*
- v) Evidence of marketing via the internet.*

- 7.9 In this instance 12 months active marketing would be required, but no formal marketing report has been provided at all with this application, so it is not possible to assess whether criteria i) to v) above have been satisfied.
- 7.10 When APP/25/00113 was determined, it was understood that the premises were marketed from mid-September 2024 until early March 2025 when the applicant signed the lease for the premises in March 2025. This would account for approximately 6 months marketing, but the Council has not been provided with the enquiry log to know how many interested parties there were in that period, their suitability, or the extent of the marketing. Therefore, it has not been adequately demonstrated that the site is no longer fit for purpose and financially unviable for B use class employment purposes, as required by this policy.

- 7.11 It is also noted that the site is located within an established row of other B use class industrial units, with its apparent continued suitability for B uses. The Council has a demonstrated need for employment land as set out in the Employment Land Review, dated September 2024 which identifies that Havant has an unmet need of 55,000 sqm of industrial land. As such, with a strong demand for industrial floor space, this document recommends at paragraph 11.10 that *"existing employment sites should not be proactively released without careful consideration....the Council would be justified in seeking marketing evidence before concluding sites should be released"*. Therefore, the loss of this industrial unit to speculative Class E uses should not be supported in principle without the appropriate marketing information.
- 7.12 Notwithstanding the fact that it has not been adequately demonstrated that the site is no longer suitable for B use class employment purposes, with reference to the amount of employment offered, it is noted that policy DM3 also requires other types of economic development to be first considered that provide employment opportunities of similar quality and quantity as previously existed on site. The previous B2 motorbike repair use would have offered skilled employment opportunities for trained and qualified mechanics. As a speculative application for a broad range of Class E uses, it may be that some of the uses would offer equal employment opportunities, but others may not.
- 7.13 Additionally policy W3 of the Emsworth Neighbourhood Plan is relevant which seeks to resist any change of use of industrial land to other uses except in exceptional circumstances. The Neighbourhood Plan seeks to retain industrial sites to maintain employment prospects alongside housing to ensure the town can provide work for everyone. It is not considered there are any exceptional circumstances in this speculative broad Class E proposal to justify the loss of the industrial unit.
- 7.14 Therefore it is considered that the lack of any formal marketing information, or sequential information about availability of other sites, makes this proposal contrary to policies CS4 and DM3 of the Core Strategy, policies AL3 and DM19 of the Allocations Plan, and policy W3 of the Emsworth Neighbourhood plan, as well as paragraph 91 of the NPPF, and cannot be supported. Additionally the lack of any information to address the criteria of policy DM5 of the Core Strategy makes the proposal contrary to this policy as well.

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

- 7.15 The site is located within a mixed area - it is clearly industrial in character on the east side of Palmers Road, but residential on the west. The nearest retail units front North Street, including Tesco to the south, and there is a footpath link between Henry Adams and Leaders leading to the Palmers Road public car park. Whilst these retail uses and car park are close by, the site is nevertheless sited out on a limb, and not part of the day-to-day footfall area of shoppers. Customers of the industrial units often have a booked appointment for a car service or repair, and hence this northern limb of Palmers Road is not characterised by retail shoppers or pedestrians moving about, and remains largely a more private residential area, especially at weekends when the industrial units are closed.
- 7.16 The introduction of most of the Class E uses, whether that be a retail shop, café, professional office (e.g. an estate agents), gym, dentist, doctor, children's nursery, etc would provide a destination for the public who previously had little reason to visit Palmers Road. This would in turn increase the number of pedestrians and customers accessing the site in this stretch of Palmers Road, subtly changing its character from a residential and industrial road with minimal passing pedestrians, to a more public

pedestrian frequented area. Whilst no associated operational development is currently proposed, it is likely that any such future occupier would want to put up signage and make some alterations to the frontage. This could be out of keeping in this industrial and residential area but would need to be assessed on its merits as part of any future planning application for the associated operational development.

- 7.17 Policy CS16 requires development to respect its local context, but it is considered that the introduction of most of the Class E uses would be out of keeping with the character of the immediate area which is clearly a mix of residential and industrial.

(iii) Impact upon residential amenity

- 7.18 Whilst it is accepted that the existing residential properties are located opposite industrial units, due to the hours of use condition limiting the activity associated with the industrial units to between 8.30am and 6pm Monday to Friday and 8am to 1pm Saturdays only, then local residents get a reprieve from the noise and disturbance and parking pressures associated with the industrial uses for the rest of the weekend and on Bank Holidays. This 'downtime' is important to local residents allowing them to enjoy some peace and quiet over the majority of the weekend, when the road becomes truly residential in character again.
- 7.19 However the requested hours of operation for any Class E use is 9:00 to 17:00 Monday to Saturday; and from 10:00 to 16:00 on Sundays and Bank Holidays. The introduction of Saturday afternoon and Sunday and Bank Holiday working would extend the noise and disturbance from comings and goings of customers into the neighbour's 'downtime'. This would subject neighbours to almost continual daytime disturbance, 7 days a week, detrimental to their amenity and quiet enjoyment of the area at weekends.
- 7.20 Policy CS16 seeks to protect neighbouring amenity from loss of privacy, outlook, noise and overlooking. It is acknowledged that the additional passers-by and customers in the street would not necessarily result in any loss of privacy, outlook, or overlooking, over and above that already experienced from the industrial units. But by virtue of the requested increased opening hours, there would be some additional impacts from noise from comings and goings on Saturday afternoons, Sundays and Bank Holidays when the rest of the street would be quieter. Additionally, policy DM10, Pollution, only permits developments that do not give rise to noise, smell, smoke, fumes, gases, steam, dust, vibration, light, heat etc. The additional customer comings and goings, including fumes and vibrations from car journeys and car doors slamming, at the weekend hours when the industrial noises cease, would introduce a level of noise pollution harmful to the health and wellbeing of the occupiers of the adjacent dwellinghouses.
- 7.21 Additionally, neighbouring amenity could be affected by some of the specific uses e.g. food and drink uses. The requirements under policy DM5 for extractor equipment etc are mitigation measures to protect neighbouring amenity. Without these it has not been adequately demonstrated that a Class E(b) use would not have any adverse impacts on neighbouring amenity from smells and odours etc.
- 7.22 Overall it is considered that the unfettered Class E use could have some adverse impacts on neighbouring amenity that have not been adequately mitigated (e.g. smells associated with food uses) and the requested opening hours for a speculative Class E use would result in additional noise and disturbance, sufficient to be considered contrary to policies CS16, DM5 and DM10.

(iv) Parking and Highways

- 7.23 Since an unfettered Class E use is so broad, then it is necessary to ensure that the traffic movements and parking demands of all possible uses would not result in any adverse impacts on either highway safety or highway amenity. The adopted Parking SPD has differing on site car parking ratios required according to different uses.
- 7.24 The application site has a floorspace of about 120 sqm and the submitted plans indicate the site can provide 4 spaces – two at the rear via the rear service yard, and two at the front. However, due to the angle of the site frontage, realistically it is considered that only 1 space is available at the front without overhanging the highway or blocking access to the unit or neighbouring unit. It is also noted that the site is located directly opposite on-street parking spaces that can be used for 45 minutes, and close to the Palmers Road public car park, and is therefore considered a relatively accessible site.
- 7.25 Using the adopted Parking SPD and 120sqm, some of the proposed uses would require the following amount of parking spaces: non-food retail – 6 spaces; food retail – 8.5 spaces; eating and drinking/cafes – 24 spaces; professional office – 4 spaces; doctor/dentist/vet – 3 spaces per consulting room; gym – 12 spaces. The range of spaces likely to be required could therefore be from 3 to 24 spaces. It is considered that these are not significant numbers given the sites proximity to public parking.
- 7.26 As noted when assessing APP/25/00113, since the floorspace of the unit is small, just 120 sqm, then the scale of any future Class E use would not trigger a consultation to Hampshire County Highways. The traffic and vehicle movements associated with the lawful B2 use is considered to be similar to most of the Class E uses for such a small unit. Both a Class B2 and Class E use would have some deliveries, and the size, type and frequency of those delivery vehicles could be similar. It is likely that a Class E use would have greater customer visits, but many of these would be on foot from customers already in Emsworth.
- 7.27 Overall it is considered that the parking and highways issues associated with the proposed change of use from Class B2 to an unfettered Class E use is acceptable and would not result in any additional harm to either highway safety or amenity. It is noted that no cycle provision is shown on the submitted plans, but it is acknowledged that if the application were to be permitted on appeal, then a condition could be imposed requiring both a short stay cycle stand for customers at the front, and a long stay cycle stand at the rear for staff.

(v) Ecology and Biodiversity Net Gain (BNG)

- 7.28 The application site is clear of vegetation and is therefore not considered to be of any ecological value.
- 7.29 In terms of BNG, as a change of use application with no operational development, then the development is subject to the De-Minimis exemption of the Biodiversity Gain Requirements (Exemptions) Regulations 2024. To qualify *‘the development must not impact an onsite priority habitat (defined as a habitat specified in a published list); secondly, the development must impact no more than 25 square metres of onsite habitat with a biodiversity value greater than zero, and no more than five metres in length of onsite linear habitat.’*

8 Conclusion

- 8.1 The application site is located outside the defined District Centre of Emsworth in an 'edge of town' location. This requires a sequential approach to be taken before a change of use from a Use Class B employment use to a main town centre retail Use Class E use can be supported. No such sequential test has been provided. Therefore, the application is considered to fail paragraph 91 of the NPPF, and the aims of policies CS4, DM19 and AL3 which seek to direct main town centre uses to the identified centres. Additionally, no information has been submitted to satisfy policy DM5 in the event of a Class E(b) food and drink use.
- 8.2 Furthermore, the proposed change of use of the existing Use Class B2 industrial unit to a Use Class E unit would result in the loss of the employment site for which no overriding justification has been provided. No marketing report has been submitted to demonstrate the site is no longer fit for purpose and financially unviable for Use Class B employment purposes as required by policy DM3 of the Core Strategy. Given the Council's shortfall of industrial floorspace and the Emsworth Neighbourhood Plan policy W3 resisting the change of use of industrial land, then the loss of this industrial unit cannot be supported.
- 8.3 Additionally it is considered that a Class E use in this mixed residential and industrial area would provide a public destination resulting in increased footfall and public presence, having an adverse impact on the character of the area, contrary to policy CS16. The proposed extended hours of opening for Saturday afternoons, Sundays and Bank Holidays would also introduce comings and goings with associated noise and disturbance, harmful to neighbouring amenity, contrary to policies CS16 and DM10; and any food use has not been adequately mitigated for smells, contrary to policy DM5 and DM10.
- 8.4 For these reasons it is recommended to refuse the application.
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9. RECOMMENDATION:

That the Development Manager be authorised to Refuse application APP/25/00700

Reasons for Refusal:

1. The site lies outside the defined District Centre of Emsworth and it has not been adequately demonstrated through any sequential assessment that a main town centre Class E use is appropriate for this edge of centre site. Insufficient evidence has been provided to demonstrate that there are no preferable town centre sites available, contrary to paragraph 91 of the NPPF, policy CS4 of the Havant Borough Local Plan (Core Strategy) 2011 and policies AL3 and DM19 of the Havant Borough Local Plan (Allocations Plan) 2014.
2. The proposed change of use of the site from a Class B2 industrial employment site to a Class E unit would result in the loss of the industrial site for which no overriding justification has been provided. No marketing report has been submitted to demonstrate the site is no longer fit for purpose and financially unviable for Class B employment purposes as required by policy DM3 of the Havant Borough Local Plan (Core Strategy) 2011. The proposal is also considered contrary to policy W3 of the Emsworth Neighbourhood Plan, adopted 2021, and the National Planning Policy Framework.
3. No mitigation measures have been provided for any Class E(b) food and drink use from the site. Therefore, it has not been adequately demonstrated that there would be no adverse harm to neighbouring amenity from noise, smells, odours, smoke, fumes, gases,

litter etc, contrary to policies CS16, DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

4. The proposed change of use would introduce a Class E unit into a mixed residential and industrial area which would result in increased footfall and public presence, having an adverse impact on the character of the area, and be out of keeping with local context, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
5. The proposed opening hours of Saturday afternoons, Sundays and Bank Holidays, would introduce a level of noise and disturbance to Palmers Road when the area is otherwise quiet. This would be harmful to the quiet enjoyment of the adjoining residential properties, having an adverse impact on neighbouring amenity, contrary to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Informatives:

1. Please note that the description of this development is at the request of the applicant's agent, and the Local Planning Authority hold a different view, and consider that the lawful use of the premises is Class B2 on a permanent, not temporary, basis.
2. In accordance with paragraphs 38-50 of the NPPF Havant Borough Council (HBC) takes a positive and proactive approach and works with applicants/agents on development proposals in a manner focused on solutions by:

Offering a pre-application advice service, and
Updating you of any issues that may arise in the processing of your
application and where possible suggesting solutions, and,

In this instance:

Your application is considered unacceptable for the reasons set out in this
Decision Notice.