



# **PLANNING COMMITTEE REPORT**

**TO:** Planning Committee South

**BY:** Head of Development

**DATE:** 18 December 2018

**DEVELOPMENT:** Variation of conditions 15 and 16 to previously approved application DC/17/1279 (Proposed demolition of existing commercial unit and erection of replacement commercial unit with single flat on first floor). Amendments sought to approved opening and delivery hours.

**SITE:** Bridge Garage Henfield Road Cowfold Horsham West Sussex RH13 8DT

**WARD:** Cowfold, Shermanbury and West Grinstead

**APPLICATION:** DC/18/1114

**APPLICANT:** **Name:** Mr Mick Clark **Address:** Bridge Garage, Henfield Road Cowfold RH13 8DT

**REASON FOR INCLUSION ON THE AGENDA:** More than 8 letters of representation have been received within the consultation period with a view contrary to the recommendation

**RECOMMENDATION:** To grant planning permission subject to conditions

## **1. THE PURPOSE OF THIS REPORT**

1.1 To consider the planning application.

### DESCRIPTION OF THE APPLICATION

1.2 The proposal seeks to vary the opening hours and delivery hours which are currently restricted by conditions 15 and 16 of DC/17/1279. These conditions state:-

#### Condition 15:

1.3 The premises shall not be open for trade or business, and no trade deliveries taken or dispatched, except between the hours of 07:30 hours and 18:00 hours on Mondays to Fridays inclusive.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

#### Condition 16:

1.4 No plant or machinery shall be operated, or processing carried out, on the premises before 07:30 hours or after 18:00 Monday to Friday, nor at any time on Saturday, Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of amenity of neighbouring properties and to ensure the use of the site does not have a harmful environmental effect and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 1.5 As originally submitted the application sought to vary the above conditions and allow hours of use and trade as follows:-
- 06:00 – 19:00 hours for transport and deliveries;
  - 07:00 – 18:00 hours for office opening and machinery operations; and
  - Operations extended to weekends and Bank Holidays as per the above hours
- 1.6 The supporting documents advise that the business provides crane and lifting devices hire locally and further afield. In some instances, the equipment is required overnight and therefore returned to the site after the imposed hours. The application has therefore been submitted to allow for equipment to be returned to site and securely locked outside of the current operating hours. In addition, in some instances equipment is also pre-loaded onto trailers to await early morning dispatch from the site in order to reach sites that are located some distance from the application site.
- 1.7 The submission advises that prior to demolition of the existing building (and its redevelopment as outlined in 2.5) the commercial use of the site was operating as set out in section 1.5 (above). This current submission has therefore been submitted to extend the hours permitted in DC/17/1279 to reflect the historical use of the site.
- 1.8 As part of the application process the applicant has clarified the nature of activities which would take place within the extended opening hours, for which consent is sought; these are set out below:-
- Movement of single vehicle held on Clark Lifting's Operator's License:  
Mon-Sat 0600hrs – 1900hrs
  - Other external deliveries and collection via external transport contractors:  
Mon-Fri 0800hrs – 1800hrs  
Sat 0800hrs – 1400hrs
  - MOT/repair workshop and Clark Lifting Solutions operating hours:  
Mon-Fri 0800hrs – 1800hrs  
Sat 0800hrs – 1400hrs
  - Front forecourt trading hours:  
Mon-Sun 0800hrs – 1800hrs

#### DESCRIPTION OF THE SITE

- 1.9 The application site concerns an established commercial site at the southern edge of Cowfold village, which has been in use as a car sales, repair and crane hire business for an extended period of time.
- 1.10 Permission was recently granted under DC/17/1279 for the demolition of the original building and for the erection of a replacement commercial unit, along with a first-floor residential flat. The commercial floor space would accommodate the existing occupants of the building, including commercial vehicle MOT repair, car / vehicle sales and a crane hire company. The occupation of the flat was, at the time of the approved application, considered suitable for open market occupation, and was not designated as being in any way tied to any of the businesses operating from the site.

- 1.11 The permission was granted subject to a number of pre-commencement conditions and regulatory conditions, some of which were imposed to protect residential amenity, including those of the first floor flat within the development site. This is reflected by conditions 15 and 16 which the applicant now seeks to amend.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

#### 2.2 National Planning Policy Framework

#### 2.3 Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 – Strategic Policy: Development Hierarchy

Policy 7 - Strategic Policy: Economic Growth

Policy 9 - Employment Development

Policy 12 - Strategic Policy: Vitality and Viability of Existing Retail Centres

Policy 24 - Strategic Policy: Environmental Protection

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 40 - Sustainable Transport

Policy 41 - Parking

#### 2.4 RELEVANT NEIGHBOURHOOD PLAN

The Cowfold Neighbourhood Plan is still at an early stage

#### 2.5 PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/17/1279	Proposed demolition of existing commercial unit and erection of replacement commercial unit with single flat on first floor.	Application Permitted on 28.09.2017
DC/13/1818	Demolition of existing garage building, erection of new garage building for car sales, car and class 7 MOT testing, car repairs, equipment hire and repairs	Application Permitted on 12.02.2014

## 3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

### INTERNAL CONSULTATIONS

- 3.2 **HDC Environmental Health:** No objection on the basis of the occupation of the first floor flat (within the application site) being tied to the business use in order to address concerns relating to the potential impact of hours of use in the absence of such a restriction.

### PUBLIC CONSULTATIONS

- 3.3 **Parish Council:** Object. The condition was put in place to "safeguard the amenity on neighbouring properties", and we believe that this is still appropriate.

3.4 To date, letters of representation have been received from 12 different properties near to the application site. The following objections have been raised:

- Additional hours will add to existing noise levels along Henfield Road
- Additional pollution from HGV's in the village at weekends
- Already considerable noise at weekends caused by business premises - beeping from reversing large vehicles into the site
- Increased hours would affect traffic in the village at weekends

#### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

#### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

#### **6. PLANNING ASSESSMENTS**

6.1 Policy 33 of the Horsham District Planning Framework (2015) seeks to ensure that development avoids unacceptable harm to the amenity of nearby property or land, for example through noise disturbance.

6.2 The current hours of use for the approved development scheme restrict any element of the commercial use of the site from operating before 07:30 hours or after 18:00 on a Monday-Friday, with no operations permitted at weekends and on Bank / Public Holidays (ref: DC/17/1279).

6.3 The existing commercial uses at the site, which are also to occupy the premises post-development, includes a car sales yard operating from the site forecourt. The operating hours for this element of the use are proposed as 08:00 – 18:00 hours Monday through to Saturday. It is considered that this use would not involve any activities which would be expected to generate significant potential for harmful levels of noise or disturbance, with the main activity the movement of vehicles. It is therefore considered that the proposed operating hours, as set out above, are acceptable and would not result in significant harm to neighbouring amenity.

6.4 The remainder of the site comprises a vehicular MOT / workshop and a crane / lifting hire business. These uses involve a number of activities which have potential to impact on neighbouring amenity. In response to concerns regarding the proposed extended hours the applicant has provided greater detail as to times during which specific activities would take place on the site. The core hours of these businesses would be 08.00 – 18.00 Monday to Friday, and 08.00 – 14.00 on Saturdays. This does not represent a significant increase over the originally permitted hours, with the key change opening on Saturdays. The introduction of Saturday working is not considered objectionable in principle, particularly given the original commercial building had no restrictions on operating hours, and the hours sought would not be considered unsociable.

6.5 In respect of the activities taking place at the site which would take place outside of the above hours these primarily relate to vehicular movements associated with crane / lifting

hire equipment. These movements relate to larger items of equipment which require loading onto trailers that need to be parked on the public highway, loaded and then driven away to sites that same day. These manoeuvres would usually happen in the early hours of the morning so that the equipment can reach its destination before rush hour traffic. This has been defined as activities of single vehicles held on 'Clark Lifting's Operator's License', and would allow loading / unloading between the hours of 06:00 – 19:00hours Monday to Saturday. This part of the business is stated to be occasional, and therefore generally happens outside of normal 'business hours'.

- 6.6 It is considered that the extended openings hours would be acceptable provided the conditions are amended to reflect the specific nature of the proposed use. The site is located within the southern edge of Cowfold and while residential properties adjoin to the north and west the presence of a building and highway provides a meaningful buffer which would mitigate potential noise disturbance. The amended conditions, nos. 11, 12, 13 & 14, would retain control over operating hours to ensure activities which do take place outside of 'normal' opening hours are of a type and nature which would not lead to significant potential for harmful levels of noise or disturbance. In addition, the existing permission, includes conditions which remain relevant to the current application relating to the need for an acoustic survey for plant and a mitigation strategy; this remains relevant and would also be a condition as part of the current application.
- 6.7 The applicant has advised that the first floor residential unit would be occupied by persons connected with the ground floor commercial uses of the site; this is in contrast to the original permission which proposed the unit as potentially occupied as open market housing. The Environmental Health Team has raised concerns that if the unit were occupied by tenants not associated with the commercial uses there would be potential for harmful levels of noise and disturbance. In recognition of the applicant's intention for the first floor residential unit a condition is therefore recommended to require occupancy to an association with the ground floor commercial uses of the site. This would be considered sufficient to resolve any potential issues between contrasting uses on the site.
- 6.8 Concerns raised by way of public representations refer to additional pollution caused by traffic on the public highway, and beeping from reversing vehicles, which can be switched off within the vehicles as part of management practices within the site.
- 6.9 In conclusion, the proposal to vary the stated conditions, resulting in the creation of a new permission and associated regulatory and development conditions, has been considered within the context of the NPPF and the presumption in favour of sustainable development, and Local Policies set out within the Horsham District Planning Framework (2015).
- 6.10 Subject to the addition of appropriately worded conditions, the proposal is considered to be in accordance with HDPF policies 1, 2, 3, 7, 9, 32, 33, 40 and 41.

## **7. RECOMMENDATIONS**

7.1 That planning permission be granted subject to the following conditions:-

1 **Approved Plans**

2 **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Details shall include oil trap gullies and petrol / oil interceptors owing to the nature of the commercial operations on the site. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

- 3 **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Details shall include oil trap gullies and petrol / oil interceptors owing to the nature of the commercial operations on the site. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

- 4 **Pre-Occupation Condition:** Prior to first use no internally and externally located plant shall be operated until an assessment of the acoustic impact arising from the operation has been undertaken in accordance with BS 4142:2014 and submitted to and approved by the Local Planning Authority. Where the assessment identifies potentially adverse impacts a scheme of attenuation measures to mitigate any adverse impacts shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved by the Local Planning Authority shall be fully installed before the use hereby permitted commences and shall be operated for as long as the use is continued.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 5 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, the recommended mitigation measures set out within the submitted Acoustic Associates Sussex Ltd Industrial Noise Assessment (Car Sales and Car Workshop) dated 03/05/2015 and referenced J1312 shall be fully implemented and subsequently tested to demonstrate the achievement of the required sound reduction. The test report, and any identified mitigation in the event that tests demonstrate potential concerns, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation and the approved mitigation measures shall thereafter be permanently retained, unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 6 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, details of all boundary walls and/or fences, including compound fencing, shall have been submitted to and approved in writing by the Local Planning Authority. No building hereby permitted shall be occupied (or use hereby permitted commenced) until the boundary treatments associated with that building (or use) have been implemented as approved. The boundary treatments shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of visual and residential amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, a plan showing the layout of the proposed development and the provision of car parking spaces (including garages) for vehicles, turning space, loading / unloading and access facilities shall be submitted to and approved in writing by the Local Planning Authority. No building hereby permitted shall be occupied or use hereby permitted commenced until the parking spaces associated with it have been provided in accordance with the approved details. The areas of land so provided shall thereafter be retained for the parking of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of all highways in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 8 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, a contamination verification plan shall be submitted to and approved, in writing, by the Local Planning Authority. The verification plan shall provide details of the data collected in order to demonstrate that the works set out in Condition [1] are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required. ed report.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 9 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, details all external lighting and floodlighting shall have been submitted to and approved in writing by the Local Planning Authority. No building hereby permitted shall be occupied (or use hereby permitted commenced) until the boundary treatments associated with that dwelling (or use) have been implemented as approved. The boundary treatments shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of visual and residential amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 10 **Regulatory Condition:** The car sales business shall not be open for trade or business, and no trade deliveries taken or dispatched, except between the hours of 0800 hours and 1800 hours on Mondays to Saturdays. No trade or business shall be conducted on Sundays, Bank Holidays and Public Holidays.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 11 **Regulatory Condition:** The MOT / workshop and general premises comprising the crane / lifting hire business, shall not be open for trade or business except between the hours of 0800 hours and 1800 hours on Mondays to Fridays, and between the hours of 0800 hours and 1400hours on Saturdays. No trade or business shall be conducted on Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of amenity of neighbouring properties and to ensure the use of the site does not have a harmful environmental effect and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 12 **Regulatory Condition:** Vehicular movements associated with the crane / lifting equipment hire by way of Clark Lifting's Operator's Licence shall not occur except between the hours of 0600 hours and 1900 hours on Mondays to Saturdays. No associated vehicular movements shall be conducted on Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of amenity of neighbouring properties and to ensure the use of the site does not have a harmful environmental effect and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 13 **Regulatory Condition:** There shall be no vehicular movements outside of the site associated with the crane / lifting hire business, except between the hours of 0800 hours and 1800 hours on Mondays to Fridays, and between the hours of 0800 hours and 1400hours on Saturdays. No associated vehicular movements shall be conducted outside of the site on Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of amenity of neighbouring properties and to ensure the use of the site does not have a harmful environmental effect and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 14 **Regulatory Condition:** No plant or machinery shall be operated, or processing carried out, on the premises, including jet-washing and servicing of cars, except between the hours of 0800 hours and 1800 hours on Mondays to Fridays, and between the hours of 0800 hours and 1400hours on Saturdays. No plant or machinery to be operated on the site on Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of amenity of neighbouring properties and to ensure the use of the site does not have a harmful environmental effect and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 15 **Regulatory Condition:** The occupation of the first floor residential unit hereby permitted shall be limited to a person solely or mainly working, or last working, in connection with the commercial uses carried on at the application site.

Reason: In the interests of ensuring that the commercial use(s) at the site do / does not lead to an unsatisfactory relationship between independent unit of living accommodation contrary to Policy 33 of the Horsham District Planning Framework (2015).