



**TO:** Planning Committee North

**BY:** Head of Development and Building Control

**DATE:** 7<sup>th</sup> March 2023

**DEVELOPMENT:** Change of use of existing unit from Light Industrial/ Storage (Use Class E/ B8) to Brewery Tap Room and ancillary storage facility (Sui Generis).

**SITE:** Woodshed Music Ltd Unit 1 Blatchford Close Horsham West Sussex RH13 5RG

**WARD:** Roffey South

**APPLICATION:** DC/22/1933

**APPLICANT:** **Name:** Mr Rohan Hill **Address:** 23 The Gables Wimblehurst Road Horsham RH12 2EE

**REASON FOR INCLUSION ON THE AGENDA:** This site is owned by Horsham District Council

**RECOMMENDATION:** To refuse planning permission

**1. THE PURPOSE OF THIS REPORT**

To consider the planning application.

**DESCRIPTION OF THE APPLICATION**

- 1.1 This application seeks retrospective planning permission for the change of use of Unit 1 within the Blatchford Close industrial estate from the permitted use of Light Industrial/ Storage (B1c/B8 now Class E/B8) to a Brewery Tap Room/ Tasting Area and ancillary storage use (Sui Generis Use Class). No external alterations are proposed.
- 1.2 The Planning Statement suggests that this unit would comprise a number of taps and beer pumps to serve real ale and beer for on site consumption, and to take away in bottled/ canned form.
- 1.3 The site is laid out with a bar serving the tap area and a seating area to the front in the style of a drinking establishment. To the rear is a store area and a WC. Drinking establishments formally sat within Use Class A4, but now comprise a Sui Generis Use under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

**DESCRIPTION OF THE SITE**

- 1.4 The application site (Unit 1) is situated within the Built Up Area of Horsham and is located towards the end of the Blatchford Road/Blatchford Close industrial estate. This industrial

estate is identified as a Key Employment Area within the Horsham District Planning Framework.

- 1.5 Unit 1 forms the end unit in a parade of small industrial 'start up' units with associated car parking located in front of the units. The surrounding units are occupied by a variety of businesses including Electrical Contractors, Bathroom Supplies, Heating Engineers, IT Services, Sign Makers, Bathroom Fitters, The Cake Tasting Club and Bangers Galore.
- 1.6 Unit 3 is occupied by Horsham Brewery Company with planning permission granted in 2021 by this committee for a micro- brewery with an ancillary brewery shop and tap room/ tasting area (Use Class B2).
- 1.7 All the units within this part of the industrial estate are owned by Horsham District Council, including Units 1 and 3. It understood that the application site at Unit 1 is currently being occupied contrary to the lease agreed with HDC which was specifically for offices with an ancillary tap room. This use would have fallen within the permitted use class for this part of the industrial estate.

## **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:

#### **National Planning Policy Framework**

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

Policy 1 - Strategic Policy: Sustainable Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 7 - Strategic Policy: Economic Growth

Policy 9 - Employment Development

Policy 13 - Town Centre Uses

Policy 33 - Development Principles

Policy 41 - Parking

Policy 41 - Community Facilities, Leisure and Recreation

#### **Horsham Blueprint 2019-2036 (August 2022)**

HB9: Protecting existing and encouraging new commercial premises and land

Northern West Sussex Economic Growth Assessment Supplementary Report (2015)

#### Planning Advice Notes:

Facilitating Appropriate Development

Biodiversity and Green Infrastructure

### PLANNING HISTORY AND RELEVANT APPLICATIONS

HU/372/61	Erection of 10 rented factory workshops (From old Planning History)	Application Permitted on 20.11.1961
HU/70/01	Construction of a new pitched roof installation of new front entrance screen and roller door Site: Units 1-20 Blatchford Close Horsham	Application Permitted on 04.04.2001

## **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

##### **HDC Environmental Health and Licencing:** Comment

- 3.2 The development is sited in a commercial area Horsham, although domestic properties are located approx. 65 metres to the west and 75 metres to the south. This Service makes the following recommendations for Conditions which should be attached to the development, should the Application be Permitted.

1) No externally located plant is to be installed without prior consent from by the Planning Authority.

2) No extract-ventilation plant with efflux to the external environment is to be installed without prior consent from by the Planning Authority.

3) The premises is only to be open to the public between the hours of 17:30pm and 22:30pm Monday to Thursdays inclusive, 17:00pm and 23:00pm on Fridays, and 11:00am and 21:00pm on Saturdays, with no opening on Sundays or Bank Holidays. In addition, this Service makes the following recommendations for Conditions to minimise disturbance during the undertaking of the development works, should the Application be Permitted:

4) Demolition and/or Construction Phase a) Suitable assessments should be made to identify any asbestos contained within the building and controls put in place to ensure safe removal and disposal where necessary. b) A licensed waste removal contractor should remove all clearance debris and construction waste from site. c) No burning of materials should take place on site. d) Hours of construction activities (including deliveries and dispatch) should be limited to 08.00 – 18.00 Monday until Friday, 09.00 – 13.00 Saturdays and no activity on Sundays or Bank Holidays.

##### **HDC Economic Development:** Support

- 3.3 Economic development supports this proposal. The Economic Strategy highlights the importance of supporting local businesses to develop and thrive through inward investment throughout the District. In order to encourage this investment by businesses, it is to continue to support opportunities for development in the commercial landscape and support the proposals that will add to the local economy of the District.

- 3.4 The current proposal would see the premises remain occupied under a change of usage which we not believe will have a negative impact on the area. By supporting this application, Horsham District will have another operational business that will add to the local economy. The limited amount of change to the site should also be seen as beneficial in this proposal. The application should be seen as another step towards supporting local businesses to thrive in the District.

##### **HDC Property and Facilities:** Object

- 3.5 This is a retrospective planning application. This is not clear from the application. The unit is not empty, as stated in the planning statement, it is occupied and trading as a Tap Room.
- 3.6 The planning application states that the property would be used as an 'auxiliary' tap room for the Brewery two doors away and that there has been a misunderstanding with HDC's lawyers and property team regarding planning use. What is now being presented in the planning application is not what is reflected in the lease, which is that the use would be for offices with

an *ancillary* tap room, which falls within class E. When the tenant fitted out the unit they fitted it out as The Tap Room with no offices. The Tap Room is the dominant use, which means that the tenant is in breach of planning.

- 3.7 There were other potential class E tenants interested in this unit, it is not true to say that this proposal would 'bring a vacant industrial unit into effective use'. This small estate is incredibly popular and we have no problems whatsoever in letting units under the existing use class.

#### OUTSIDE AGENCIES

##### **WSCC Highways:** Comment

- 3.8 The Local Highways Authority (LHA) has viewed the submitted plans and documents. However, at this stage we would request that some additional information is submitted to allow further assessment from the highway's perspective:
1. Please provide trip rates for existing and proposed uses.
  2. Please provide justification and mitigation for the parking provision verses demand (in relation to WSCC parking demand calculator) of the site.
- 3.9 Until such time, the LHA are not in a position to provide final comments until we receive the requested information as stated above. The applicant and Local Planning Authority should be aware that the information provided for this request, might result in the need for further documentation upon resubmission.

##### **Natural England:** Objection

- 3.10 Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.
- 3.11 Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question, chiefly due to a lack of water neutrality consideration. Having considered the assessment, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity.
- 3.12 Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out. Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended).
- 3.13 As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

## PUBLIC CONSULTATIONS

### **Forest Neighbourhood Council: No Objection**

- 3.14 Eleven (11) representations have been received supporting the development for the following reasons:
- The brewery is a community asset and has had a positive impact on the local area bringing the local community together,
  - The brewery supports other local brewers and producers
  - The brewery will help relieve mental health issues common amongst older men
  - Facility is small and ideally located to avoid traffic congestion and noise
  - Employment for bar staff who have lost their jobs as a result of pub closures elsewhere
  - Hours of operation are less than the former music school, meaning less water use
  - The tap is also using water saving methods
  - Growth of local economy

[Nb all eleven representations were received outside of the consultation period]

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

- 4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.
- 4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. It is noted that a representation letter refers to the benefit of the development in helping relieve mental health issues common amongst older men and this has been considered in the consideration of this application. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

## **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**

### Principle of Development

- 6.1 Policy 7 (Strategic Policy: Economic Growth) of the HDPF seeks to achieve sustainable economic growth for Horsham District to 2031. Policy 7 states that this will be achieved in a number of ways, including the development, regeneration, intensification and smart growth of existing employment sites and the retention of Key Employment Areas for employment uses.
- 6.2 Policy 9 (Employment Development) of the HDPF states that redevelopment in the Key Employment Areas must not result in the overall loss of employment floorspace. Proposals for alternative uses within the Key Employment Areas will be allowed where it can be demonstrated that the sequential approach has been applied to the redevelopment of the

site, and the proposals support their integrity and function as centres for employment. The policy seeks to balance the need to ensure protection of valued employment and commercial sites to ensure there are sufficient local employment opportunities to meet the needs of the District, whilst enabling sites which are no longer economically viable to be considered for other appropriate uses.

- 6.3 The sequential approach is a planning principle that seeks to identify, allocate or develop certain types of uses before others. In this instance, the HDPF requires the sequential approach to be applied to development proposals in the Key Employment Areas. The sequential approach is set out in the supporting text to Policy 9 and favours employment based redevelopment in the first instance, mixed use or other employment creating use redevelopment in the second instance and lastly, alternative non-employment use based redevelopment. Although not expressly stated within Policy 9, employment uses are those that fall within Use Class E(g) (formerly B1), B2 and B8 commensurate to the evidence base which supported the allocation of the wider industrial estate as a Key Employment Area.
- 6.4 The original B-class sectors including B1, B2 and B8 are generally accepted to be the use classes generating employment space. This is supported by the latest Economic Growth Assessment (2020) prepared for Horsham District Council which focuses only on B-class uses in a review of employment space requirements in the District. (Nb Units permitted for B1 use now fall within the new E(g) Use Class).
- 6.5 This unit is located within a defined 'Key Employment Area' of Blatchford Road where a range of employment uses- industrial and commercial occupy the small units under lease from Horsham DC. From the Case Officer's site visit it was observed that there is a high occupancy rate in the Blatchford Road/Close Key Employment Area and the landlords of the units have confirmed that there are no vacant units at present. These units are occupied by various users including Bathroom Supplies, Heating Engineers, IT Services, Sign Makers, Bathroom Fitters, The Cake Tasting Club and Bangers Galore. Unit 3 is occupied by Horsham Brewery Company with planning permission granted in 2021 (DC/21/0426) by this committee for a micro- brewery with an ancillary brewery shop and tap room/ tasting area (Class B2).
- 6.6 This application proposes the change of use of the unit to a Drinking Establishment which would have formerly fallen within an 'A4' use class and now falls within a Sui Generis use Class (since 2020). No evidence of marketing of the unit for its existing permitted use has been provided and there is no evidence to show that the existing unit could not be occupied by another Class E/B8 use in this case. The landlord has confirmed that interest has been expressed in the unit from alternative occupiers who would fall within B8 or E use class. When the unit became available there were two very interested parties, one of which would have been occupying the site in an office and storage use. The Key Employment Area has a high occupancy rate and appears to be a thriving and viable employment site, and it is considered to be highly likely that another Class B8 or E use could occupy the site. In the absence of any supporting marketing evidence it is considered there is insufficient grounds to justify the loss of the Class B8/E use within a Key Employment Area to a Sui Generis use.
- 6.7 No information has been provided to set out whether any alternative sites have been considered for this particular use proposed, and reasons why this site is considered to be appropriate in the applicant's opinion despite being contrary to policy. The proposed use as a Brewery Tap Room would generate employment of approximately 2 members of staff. No information has been provided in relation to the previous occupier of the unit and the number of employees on the site, however it is estimated that a unit of this size (37 square metres) could provide employment for more workers under its permitted Class E/B8 use with an estimated 4 full-time staff if in office use (OffPAT employment densities Guide 2010).
- 6.8 It is acknowledged that in this case the proposed use would create some degree of employment, however a drinking establishment does not provide the same type/quality of

employment as the Class E/B8 uses which Policy 9 seeks to safeguard in this Key Employment Area, and no evidence has been provided that alternative more suitable premises cannot be found. It is not therefore considered that the provision of two jobs within a drinking establishment is sufficient reason to justify the loss of this Class E/B8 use within a Key Employment Area, contrary to Policy 9 of the HDPF.

- 6.9 It is acknowledged that the proposed use could be considered to be a 'community facility' as defined in Policy 43 of the HDPF, which seeks to support the provision of new community facilities, particularly where located in accordance with the Development Hierarchy. However, such uses should not be directed to safeguarded Key Employment Areas in the first instance, as these Areas are specifically safeguarded for industrial/commercial uses including start-up enterprises. A drinking establishment in this regard is of little wider benefit that does not outweigh the loss of an employment use within the Key Employment Area and the subsequent conflict with Policy 9 of the HDPF.
- 6.10 Taking into account the above evidence there is concern that the proposed change of use to a Sui Generis use would result in the loss of a valued employment site within the Key Employment Area suitable for small start-up industrial/commercial businesses, for which there is an acknowledged demand. In the absence of supporting marketing information to demonstrate that the existing use is no longer viable, and that other more appropriate sites have been explored, it is considered that the sequential approach has not been applied in this instance and therefore the proposal is in conflict with Policy 9 of the HDPF.

#### Impact on neighbouring amenity

- 6.11 The site is situated within an established employment area where there are a range of existing industrial and retail uses across the site. To the rear of the site is the 'Strawford Centre', a West Sussex County Council run day care facility for people with learning disabilities. To the rear of the day centre are residential dwellings on Kingslea, around 60 metres from the site itself.
- 6.12 The submitted Planning Statement sets out the proposed opening hours as being 5.30pm to 10.30pm Monday to Thursday, 5pm to 11pm Fridays, and 11am to 9pm on Saturdays. The proposal does not include the provision of any externally fixed plant or machinery outside of the units.
- 6.13 There is some concern in relation to potential noise and disturbance to neighbouring residents contributed to by the late evening opening hours proposed. The nature of the existing uses on the site are active during daytime hours but unlikely to be during the evening hours. The recently approved change of use at unit 3 was conditioned to ensure the tasting and tap area could not be used after 9pm Monday to Friday and 5pm on Saturdays and at no time on Sundays or Public Bank Holidays. If this application were to be approved it is considered that in the interest of the amenity of neighbouring residents, the hours of opening be no later than those stipulated for the nearby unit, whilst the use of outside space in relation to the drinking establishment use could also be restricted by condition.

#### Impact on visual amenity of the area

- 6.14 There would be no external alterations to the existing unit apart from the provision of signage on the existing doors in which no specific details have been provided.
- 6.15 As there are no other external alterations to the units the proposal would have no impact on the visual amenities of the area.

#### Highways and parking impact

- 6.16 Policies 40 and 41 of the Horsham District Planning Framework state that development should provide a safe and adequate access, suitable for all users.
- 6.17 Policy 41 of the HDPF stipulates that development must provide adequate parking and facilities to meet the needs of anticipated users, with consideration given to the needs of cycle parking, motorcycle parking and electric/low emission vehicles
- 6.18 No external changes are proposed and the existing access to the industrial area from the public highway is acceptable. Whilst the Highway Authority have asked for existing and anticipated trip data, in this case given the small size of the public area of the unit (some 26sqm) it is not considered that its use as a drinking establishment will result in a significant uplift in traffic movements such that a highway safety or capacity issue would arise.
- 6.19 The West Sussex Parking standards (September 2020) set out initial guidance on vehicular parking demand by land-use class. This states that Sui Generis drinking establishments should provide one space per five sqm of public area and two spaces per bar. The public area of the unit measures around 26 sqm, and therefore the parking demand is calculated as seven spaces in total.
- 6.20 The planning statement states that the unit has two car parking spaces available within the parking area to the front of the site. Unit 3 within the same occupancy also has two spaces. No further information is provided in relation to additional parking for patrons/ customers. However from the officer site visit it was observed that there is an area of unallocated parking provision to the centre of the site which may be available outside of the opening hours of the other businesses on the wider site.
- 6.21 It is therefore considered that although the allocated parking provision falls short of the West Sussex suggested parking standards, due to the different hours of opening to most of the daytime uses on the site there is likely to be capacity on the wider site to accommodate parking demand. It is considered that on balance, no reason for refusal is substantiated in relation to policy 41 of the HDPF.

#### Water Neutrality

- 6.22 The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.
- 6.23 Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.
- 6.24 No Water Neutrality Statement has been submitted for this application. The applicants have stated in an email(s) to the case officer that no previous water usage data is available. They have also confirmed that the previous known use was a music studio. The music studio would have been likely to have been open for longer hours than the tap room, but it would have only had a limited number of visitors during that time, compared to the tap room.
- 6.25 It is acknowledged that the applicants have made a conscious effort to reduce their water consumption by installing a low water usage dishwasher, a dual flush toilet and removing the use of the 50 litre kegs that required significant amounts of water for cleaning. However insufficient information has been provided to allow the Local Planning Authority to ascertain



with any certainty whether the change of use will not result in adverse effects on the integrity of the European sites.

#### Other Matters

- 6.26 Representation letters have identified the benefit of the development in helping relieve mental health issues common amongst older men, and other benefits in supporting local businesses and the community. In this case the facility is very small therefore such benefits would be limited. In respect of supporting older persons with mental health issues, it is noted that there are further public houses within a 10-15 minute walk of the application site, with Horsham town centre a 20 minute walk (according to Google maps) or otherwise accessible by public transport. In this regard there are alternative facilities available in the local area to meet the needs of the community in this regard.

#### Conclusions and Planning Balance

- 6.27 The proposal, which is retrospective, would change the use of a Class E/B8 (formerly B1c/B8) industrial unit to a Sui Generis Drinking Establishment within a Key Employment Area. It is considered that the proposed change of use would conflict with Policy 9 of the HDPF as no supporting marketing information has been provided to demonstrate that the permitted use is no longer viable and the sequential approach has not been applied.
- 6.28 Demand for units for uses within the permitted use classes in this location is considered to be high. The occupancy rates within this industrial estate are high, with only one unit out of 23 being vacant on the officer site visit. The landlord has confirmed that interest has been expressed in the unit from alternative occupiers who would fall within an E (formerly B2) or B8 use class. Whilst there would be some positive community benefits from the resulting facility, this is not considered to outweigh the fundamental conflict with Policy 9 of the HDPF. Further, water neutrality has not been demonstrated. The application is therefore recommended for refusal.

## **7. RECOMMENDATIONS**

- 7.1 To refuse planning permission for the following reason:

#### Reason for Refusal:

1. The proposed change of use of the units from B8/E use to a Sui Generis Drinking Establishment would result in the loss of employment floor space within a Key Employment Area in the Horsham District which would conflict with Policy 9 of the Horsham District Planning Framework (2015). No supporting information relating to the viability of the existing use or details of marketing of the unit have been submitted and therefore it is considered that the sequential approach, as set out in the Horsham District Planning Framework, has not been followed in this instance.
2. Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).