

Report to: PLANNING COMMITTEE

Date of Meeting: 06 June 2019

Report from: Assistant Director of Housing and Built Environment

Application Address: 19 Moorhurst Road, St Leonards-on-sea, TN38 9NB

Proposal: Change of use from B1 (light industrial) to a B2 use as a welding business.

Application No: HS/FA/18/00924

Recommendation: Grant Full Planning Permission

Ward: HOLLINGTON 2018
Conservation Area: Yes - NO
Listed Building: No

Applicant: Booth Welding Ltd per GRF Planning Flat1 30 Collington Avenue Bexhill on Sea TN39 3NE

Public Consultation

Site Notice:	Yes
Press Advertisement:	No
Letters of Objection:	8
Petitions of Objection Received:	0
Letters of Support:	0
Petitions of Support Received:	0
Neutral comments received	0

Application Status: Not delegated - 5 or more letters of objection received

1. Site and Surrounding Area

The site comprises a small unit No.19 on the Conquest Industrial Estate situated at the top of Moorhurst Road to the north of the Castleham Industrial Estate. The estate lies adjacent to Queensway and backs onto residential dwellings along Augustus Way. Planning permission was granted in 1982 for light industrial units subject to a planning condition that no process shall be carried on and no machinery shall be installed or used which causes detriment to the amenities of the area.

The application unit is one of a row of 4 units. It measures some 110sqm gross floor space. The units are single-storey and utilitarian in character, with brick elevations and a have a low pitch corrugated roof. The application unit has a front access door, a window and a full length workshop door. There is a skip situated by the front entrance of the application unit No.19 for

waste. The units are set in a large industrial area with car parking space and vehicle access at the front of the units. There is no rear access to the application unit.

Constraints

Castleham Industrial Estate

SSSI Impact Risk Zone (does not exceed threshold)

Low Pressure Pipeline SGN

2. Proposed development

This application seeks retrospective permission for the change of use of unit No.19 from B1 (light industrial) use to B2 (general industrial) use as a welding business.

The business provides precision engineering services / specialist welding services and employs 4 people. The equipment used comprises 3 tig welders, 1 Colchester lathe, 1 machine centre and 1 screw compressor. Metal waste is stored in a skip outside the front of the premises.

Hours of work are given as 7am to 5pm Monday to Friday with some Saturday working between 7am and 1pm.

The application is supported by the following documents:

- Design and Access Statement
- Site Waste Management Plan

Relevant Planning History

HS/FA/81/00741 Erection of six blocks of light industrial unit factories, each comprising 4 units.

Granted 17.03.1982

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)

Policy FA1 - Strategic Policy for Western Area

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Policy SC4 - Working Towards Zero Carbon Development

Policy E1 - Existing Employment Land and Premises

Policy E2 - Skills and Access to Jobs

Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy DM6 – Pollution and Hazards

National Planning Policy Framework (NPPF)

Paragraph 11 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the Development Plan should be approved without delay.

Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Section 12 of the NPPF sets out the requirement for good design in development. Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 127 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:
 - * Layout
 - * Architecture
 - * Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
 - * Building types
 - * Materials
 - * Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

National Planning Policy Guidance (NPPG)

When is noise relevant to planning? - Paragraph: 001 Reference ID: 30-001-20140306

Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. When preparing local or neighbourhood plans, or taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment.

3. Consultations comments

Environmental Health - Noise - **No objection, subject to noise mitigation conditions (No.1 & 3)**

4. Representations

In respect of this application a site notice was displayed. 8 representations received from 8 different properties were received.

The concerns within these letters include:

- Noise nuisance to neighbouring dwellings on Augustus Way
- Complaint of noise nuisance since May 2018
- Units should be used in the manner that they were originally intended (light industrial)
- Setting a precedent for B2 use on the industrial estate, intensifying noise nuisance to neighbouring residents.
- Health and Safety - previous fire on site
- Anti-social hours of operation

5. Determining Issues

The main planning issues in determining this application are the principle of the development, whether the change of use to B2 general industrial is acceptable in this light industrial unit estate, impact on the amenity of neighbouring properties, pollution and hazards.

It should be acknowledged that when the units were originally granted planning permission in 1982, this was subject to conditions. Condition 10 of the 1982 permission states that '*No process shall be carried on and no machinery shall be installed or used which causes detriment to the amenities of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit*'. Despite this condition, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise, with each application must be assessed on its on merits.

a) Principle

The site is located within an established industrial estate and as such, the principle of industrial use is acceptable, subject to other local plan policies.

b) Proposed change of use

The application site is located within the small Conqueror industrial estate that falls within the wider established Castleham industrial estate. Policy E1 of the Hastings Planning Strategy 2014 clearly sets out that B1, B2 and B8 uses (or any other use of a similar character) are appropriate in these locations.

The existing use of the site is classified as B1 (Business) by the Town and Country Planning (Use Classes) Order 1987 (as amended). This is further defined as for the use of any of the following purposes:

- office (other than financial and professional services)
- research and development of products or processes, or
- for any industrial process.

The proposed use falls within a B2 use class, defined as 'general industrial' by the Town and Country Planning (Use Classes) Order 1987 (as amended) as a use for the carrying on of an industrial process other than the one falling within class B1. Paragraph 3 of the Order also

states that "where land on a single site or on adjacent sites used as parts of a single undertaking is used for purposes consisting of or including purposes falling within classes B1 and B2 in the Schedule, those classes may be treated as a single class in considering the use of that land for the purposes of this Order, so long as the area used for a purpose falling within class B2 is not substantially increased as a result.

The proposed change of use does not deviate from Local Plan Policy (E1 of the Hastings Planning Strategy) in that it seeks to maintain an active employment use on an established estate. Castleham is a dedicated employment area that has been in use since the late 70's. It's boundaries are defined by tree cover, public pathways and space between the edge of the units and the tree lined boundaries. The residential estate to the east received outline planning permission in the early 1980's and as such, was built following the establishment of the estate.

Many objections have been received stating that a B2 use is not appropriate in this location, and would set a precedent for future changes of use along similar lines. It has also been claimed that given the proximity of the residential properties in Augustus Way and surrounding areas, B1 uses should only be carried out, based on the definition in the Use Classes Order which states that "B1 uses may be carried out in a residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit".

The application site is not considered to be located within a residential area, but within the boundaries of an established employment estate. All "B" uses are therefore, considered appropriate in this location, and would be in accordance with Local Plan policy.

The definition in the Use Classes Order stated above, which considers the suitability of employment uses in residential areas, is aimed towards, and applied in, residential streets where residential properties form the majority of the buildings. It cannot be applied in these circumstances. Policy E1 clearly supports B2 uses within the Castleham estate, and given the defined boundaries and the established employment uses in the immediate vicinity, a B2 use is appropriate in this location, subject to the other considerations throughout the remainder of this report.

c) Impact on the character of the area

Policy DM1 of the Hastings Development Management Plan states that all proposals must reach a good standard of design, which includes efficient use of resources, and shows appreciation of the surrounding neighbourhood's historic context, street patterns, plot layouts and boundaries, block sizes and scale, height, massing and materials as well as good performance against nationally recognised best practice guidance on sustainability, urban design and place-making, architectural quality and distinctiveness.

There would be no external alterations to the existing unit that would impact on the character and appearance of the surrounding area.

d) Impact on Neighbouring Residential Amenities/ pollution and hazards

To the East of the site are the properties in Augustus Way. These properties range in distance from 37-54 metres from the application site with a dense line of trees and natural screening along the shared boundary with the site. These trees are protected by a Tree Preservation Order (TPO 4, A3).

Policy DM6 of the Hastings Development Management Plan (2015) states that; In order to protect human health and water quality planning permission will only be granted for development providing:

- a) external lighting proposals avoid unnecessary light pollution beyond the specific area intended to be lit;
- b) the level of airborne pollutants caused by the proposed development does not exceed statutory guidelines, unless appropriate mitigation measures are agreed;
- c) noise and odour that is detrimental to neighbouring and/or local amenity is kept to a practical minimum; appropriate means of assessment may be required;
- d) appropriate pollution control measures are incorporated where necessary to protect the quality of both ground and surface waters;

This Policy goes on to state that, applicants will be required to supply convincing supporting evidence (from a relevant and suitably qualified professional) that any actual or potential pollution can be overcome through appropriate remedial, preventative or precautionary measures. For an application involving the use or storage of hazardous substances, a separate consent has to be sought from the Hazardous Substances Authority.

As stated above, several letters of objection have been received in relation to levels of noise arising from the new use, which has been operating since May 2018. In support of the application a Plant Noise Assessment (February 2019) carried out by Anderson Acoustics has been submitted. This report focuses on the use operating from the premises along with the use of a skip outside the unit, as this is a main point of concern raised by local residents.

The report identifies states that no further mitigation measures are required in relation to operations within the building. However, further mitigation measures have been recommended to reduce the impact of noise when the metal waste skip is loaded. It has been advised that a mobile barrier with a height of 2m, be placed at no further than 1m from the metal waste skip. This barrier should be constructed with a surface density of no less than 15kg/m² to ensure noise transfer through barrier is negligible.

The application has also been assessed by the Council's Environmental Health Department who have advised that the use is acceptable, subject to conditions (No.1 & 3).

Taking the above into account, it is considered that B2 use sought as part of this permission is acceptable, subject to conditions to mitigate noise levels arising from the use. The proposal therefore complies with the aims of Policy DM6 as quoted above in respect of protecting residential amenity.

6. Conclusion

Taking the above into account, while it is acknowledged that there are concerns from local residents in relation to noise, it has been demonstrated that this is a suitable location to accommodate a B2 use without causing harm to local residential amenity, subject to mitigation conditions. It is therefore considered that the proposal complies with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

7. Recommendation

Grant Full Planning Permission subject to the following conditions:

1. Within three months of the date of this permission evidence is to be submitted to the Local Planning Authority that the required 2 metre high mobile barrier, constructed with a surface density of no less than 15kg/m², has been provided on site. The mobile barrier is to then be used on site thereafter.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification), the premises shall only be used as a welding business (Class B2) and no other use as defined within Schedule 2, Part 3, Classes B2 or B8 shall be carried out on the site.
3. The premises shall not be used except between the following hours:-

07.00 - 17.00 - Monday - Friday,
07.00 - 13.00 - Saturdays,
Not at all on Sundays or Bank Holidays.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plan, Block Plan, Floorplan, Plant Noise Assessment (February 2019).

Reasons:

1. To safeguard the amenity of adjoining residents.
2. To safeguard the amenity of adjoining residents.
3. To safeguard the amenity of adjoining residents.
4. For the avoidance of doubt and in the interests of proper planning.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
 2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
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Officer to Contact

Mrs E Meppem, Telephone 01424 783288

Background Papers

Application No: HS/FA/18/00924 including all letters and documents