

Notice of Meeting

Planning Control Committee

Date: Tuesday, 19 December 2017

Time: 17:30

Venue: Conference Room 1, Beech Hurst, Weyhill Road, Andover, Hampshire,
SP10 3AJ

For further information or enquiries please contact:

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Legal and Democratic Service

Test Valley Borough Council,

Beech Hurst, Weyhill Road,

Andover, Hampshire,

SP10 3AJ

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Planning Control Committee

MEMBER		WARD
Councillor C Collier	Chairman	Abbey
Councillor G Bailey	Vice Chairman	Blackwater
Councillor P Boulton		Broughton and Stockbridge
Councillor D Busk		Broughton and Stockbridge
Councillor J Budzynski		Winton
Councillor P Bundy		Chilworth, Nursling and Rownhams
Councillor M Cooper		Tadburn
Councillor A Dowden		Valley Park
Councillor C Dowden		North Baddesley
Councillor A Finlay		Chilworth, Nursling and Rownhams
Councillor M Hatley		Ampfield and Braishfield
Councillor S Hawke		Millway
Councillor J Lovell		Winton
Councillor C Lynn		Winton
Councillor J Neal		Millway
Councillor T Preston		Alamein
Councillor I Richards		Abbey

Planning Control Committee

Tuesday, 19 December 2017

AGENDA

The order of these items may change as a result of members
of the public wishing to speak

1 Apologies

2 Public Participation

3 Declarations of Interest

4 Urgent Items

5 Minutes of the meeting held on 17 October 2017

6 Information Notes

7 17/02182/FULLN - 21.08.2017

9 - 24

**(RECOMMENDATION OF NORTHERN AREA PLANNING
COMMITTEE: PERMISSION)**

**(RECOMMENDATION OF HEAD OF PLANNING AND
BUILDING: PERMISSION)**

SITE: Unit A and Part Unit B, 2 The Avenue, Andover, SP10
3EL, **ANDOVER TOWN (MILLWAY)**

CASE OFFICER: Mr Oliver Woolf

ITEM 6

TEST VALLEY BOROUGH COUNCIL

PLANNING CONTROL COMMITTEE

INFORMATION NOTES

Availability of Background Papers

Background papers may be inspected up to five working days before the date of the Committee meeting and for four years thereafter. Requests to inspect the background papers, most of which will be on the application file, should be made to the case officer named in the report or to the Development Manager. Although there is no legal provision for inspection of the application file before the report is placed on the agenda for the meeting, an earlier inspection may be agreed on application to the Head of Planning and Building.

Reasons for Committee Considerations

Applications are referred to the Planning Control Committee from the Northern or Southern Area Planning Committees where the Head of Planning and Building has advised that there is a possible conflict with policy, public interest or possible claim for costs against the Council.

The Planning Control Committee has the authority to determine those applications within policy or very exceptionally outwith policy and to recommend to the Cabinet and to the Overview and Scrutiny Committee revisions to policy resulting from its determination of applications.

Approximately 15% of all applications are determined by Committee. The others are determined by the Head of Planning and Building in accordance with the Council's Scheme of Delegation which is set out in the Council's Constitution.

Public Speaking at the Meeting

The Council has a public participation scheme, which invites members of the public, Parish Council representatives and applicants to address the Committee on applications. Full details of the scheme are available from Planning and Building Services or from the Committee Administrator at the Council Offices, Beech Hurst, Weyhill Road, Andover. Copies are usually sent to all those who have made representations. Anyone wishing to speak must book with the Committee Administrator within the stipulated time period otherwise they will not be allowed to address the Committee.

Speakers are limited to a total of three minutes per item for Councillors with prejudicial interests, three minutes for the Parish Council, three minutes for all objectors, three minutes for all supporters and three minutes for the applicant/agent. Where there are multiple supporters or multiple objectors wishing to speak the Chairman may limit individual speakers to less than three minutes with a view to accommodating multiple speakers within the three minute time limit. Speakers may be asked questions by the Members of the Committee, but are not permitted to ask questions of others or to join in the debate. Speakers are not permitted to circulate or display plans, photographs, illustrations or textual material during the Committee meeting as any such material should be sent to the Members *and* officers in advance of the meeting to allow them time to consider the content.

Content of Officer's Report

It should be noted that the Officer's report will endeavour to include a summary of the relevant site characteristics, site history, policy issues, consultations carried out with both internal and external consultees and the public and then seek to make a professional judgement as to whether permission should be granted. However, the officer's report will usually summarise many of the issues, particularly consultations received from consultees and the public, and anyone wishing to see the full response must ask to consult the application file.

Status of Officer's Recommendations and Committee's Decisions

The recommendations contained in this report are made by the officers at the time the report was prepared. A different recommendation may be made at the meeting should circumstances change and the officer's recommendations may not be accepted by the Committee.

In order to facilitate debate in relation to an application, the Chairman will move the officer's recommendations in the report, which will be seconded by the Vice Chairman. Motions are debated by the Committee in accordance with the Council's Rules of Procedure. A binding decision is made only when the Committee has formally considered and voted in favour of a motion in relation to the application and, pursuant to that resolution, the decision notice has subsequently been issued by the Council.

Conditions and Reasons for Refusal

Suggested reasons for refusal and any conditions are set out in full in the officer's recommendation.

Officers or the Committee may add further reasons for refusal or conditions during the Committee meeting and Members may choose to refuse an application recommended for permission by the Officers or to permit an application recommended for refusal. In all cases, clear reasons will be given, by whoever is promoting the new condition or reason for refusal, to explain why the change is being made.

Decisions Subject to Completion of a Planning Obligation

For some applications, a resolution is passed to grant planning permission subject to the completion of an appropriate planning obligation (often referred to as a Section 106 agreement). The obligation can restrict development or the use of the land, require operations or activities to be carried out, require the land to be used in a specified way or require payments to be made to the authority.

New developments will usually be required to contribute towards the infrastructure required to serve a site and to cater for additional demand created by any new development and its future occupants. Typically, such requirements include contributions to community facilities, village halls, parks and play areas, playing fields and improvements to roads, footpaths, cycleways and public transport.

Upon completion of the obligation, the Head of Planning and Building is delegated to grant permission subject to the listed conditions. However, it should be noted that the obligation usually has to be completed sufficiently in advance of the planning application determination date to allow the application to be issued. If this does not happen, the application may be refused for not resolving the issues required within the timescale set to deal with the application.

Deferred Applications

Applications may not be decided at the meeting for a number of reasons as follows:

- * The applicant may choose to withdraw the application. No further action would be taken on that proposal and the file is closed.
- * Officers may recommend deferral because the information requested or amended plans have not been provided or there has been insufficient time for consultation on amendments.
- * The Committee may resolve to seek additional information or amendments.
- * The Committee may resolve to visit the site to assess the effect of the proposal on matters that are not clear from the plans or from the report. These site visits are not public meetings.

Visual Display of Plans and Photographs

Plans are included in the officers' reports in order to identify the site and its surroundings. The location plan will normally be the most up-to-date available from Ordnance Survey and to scale. The other plans are not a complete copy of the application plans and may not be to scale, particularly when they have been reduced from large size paper plans. If further information is needed or these plans are unclear please refer to the submitted application in the reception areas in Beech Hurst, Andover or the Former Magistrates Court office, Romsey. Plans displayed at the meeting to assist the Members may include material additional to the written reports.

Photographs are used to illustrate particular points on most of the items and the officers usually take these. Photographs submitted in advance by applicants or objectors may be used at the discretion of the officers.

Human Rights

"The European Convention on Human Rights" ("ECHR") was brought into English Law, via the Human Rights Act 1998 ("HRA"), as from October 2000.

The HRA introduces an obligation on the Council to act consistently with the ECHR.

There are 2 Convention Rights likely to be most relevant to Planning Decisions:

- * Article 1 of the 1st Protocol - The Right to the Enjoyment of Property.
- * Article 8 - Right for Respect for Home, Privacy and Family Life.

It is important to note that these types of right are not unlimited - although in accordance with the EU concept of "proportionality", any interference with these rights must be sanctioned by Law (e.g. by the Town & Country Planning Acts) and must go no further than necessary.

Essentially, private interests must be weighed against the wider public interest and against competing private interests. Such a balancing exercise is already implicit in the decision-making processes of the Committee. However, members must specifically bear Human Rights issues in mind when reaching decisions on all planning applications and enforcement action.

Natural Environment and Rural Communities Act 2006 (NERC)

The Council has a duty under the Natural Environment and Rural Communities Act 2006 as follows: *"every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity"*.

It is considered that this duty has been properly addressed within the process leading up to the formulation of the policies in the Revised Local Plan. Further regard is had in relation to specific planning applications through completion of the biodiversity checklists for validation, scoping and/or submission of Environmental Statements and any statutory consultations with relevant conservation bodies on biodiversity aspects of the proposals.

Provided any recommendations arising from these processes are conditioned as part of any grant of planning permission (or included in reasons for refusal of any planning application) then the duty to ensure that biodiversity interest has been conserved, as far as practically possible, will be considered to have been met.

Other Legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of applications be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the Borough comprises the Test Valley Borough Revised Local Plan (2016). Material considerations are defined by Case Law and includes, amongst other things, draft Development Plan Documents (DPD), Supplementary Planning Document (SPD) and other relevant guidance including Development Briefs, Government advice, amenity considerations, crime and community safety, traffic generation and safety.

On the 27 March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF does not change the statutory status of the development plan as a starting point for decision making. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework sets out that where the development plan is absent, silent or relevant policies are out of date permission should be granted unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in the Framework indicate development should be restricted.

However, account can also be taken of policies in emerging development plans, which are going through the statutory procedure towards adoption. Annex 1 of the NPPF sets out that greater weight can be attached to such policies depending upon:

- The stage of plan preparation of the emerging plan;
- The extent to which there are unresolved objections to relevant policies; and
The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

The National Planning Policy Framework states that 'In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.'

ITEM 7

APPLICATION NO.	17/02182/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	21.08.2017
APPLICANT	Mr Pearce, Abbots Kitchens (Gainspace Limited)
SITE	Unit A and Part Unit B, 2 The Avenue, Andover, SP10 3EL ANDOVER TOWN (MILLWAY)
PROPOSAL	Change of use to Kitchen showroom, replacement doors, works to the facade (Resubmission)
AMENDMENTS	Additional information received 16.11.2017
CASE OFFICER	Mr Oliver Woolf

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is referred to the Planning Control Committee as the Northern Area Planning Committee (NAPC) at their meeting on 26.10.2017 was minded to grant planning permission where the Head of Planning and Building advised that there was a conflict with policy contrary to the Revised Local Plan. The Officer's recommendation to the NAPC was for refusal, as the proposal was contrary to policy LE10.
- 1.2 The report to the NAPC is attached as Appendix A. The Update Paper to the NAPC is attached as Appendix B.

2.0 PLANNING CONSIDERATIONS

- 2.1 As set out in the NAPC report, the unit was previously used as a motorcycle repair/MOT business. The application form and an email received from the applicant's agent 04.09.2017 confirmed that the previous use of the unit fell within Class B1 c) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO). The UCO describes Class B1 uses as those that can be carried out in any residential area without detriment to the amenity of that area and as such the application failed to demonstrate that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10.
- 2.2 Since the meeting of the Northern Area Planning Committee, the applicant has provided further information to clarify that the previous use of the unit should now be considered to fall within Class B2 of the UCO. This information includes a letter from the previous occupant and an email from the previous owner of the unit.
- 2.3 The letter from the previous occupant sets out the activities undertaken included the maintenance and repair of motorcycles both inside and outside the building and that generated noise, smell, fumes and smoke from motorbike engines, and waste and oil products.

The previous occupant operated for 15 years from the unit with the maintenance and repair of motorcycles taking place mainly during working hours, but also at times in the evenings and on weekends.

- 2.4 The email from the previous owner sets out that over 15 years there were complaints about noise levels and pollution from exhaust fumes and oil and that the business did not fit in well the surrounding residential area, hence the move to more appropriate premises and the sale of the property.
- 2.5 Application TVN.00763/3 was granted permission on 20.03.2002. The drawing titled 'General Arrangement' shows the floor plans of the unit described as Repair and Servicing Workshop, Servicing Workshop and MOT Test Bay and Test Centre. This suggests that the kinds of activities described above were intended to take place as part of that application scheme.
- 2.6 The Land Use Gazetteer describes motor vehicle maintenance and repair places, motor vehicle restoration places and motor vehicle testing stations for MOT as falling within Class B2 of the UCO.
- 2.7 Furthermore, Development Control Practice, which provides a searchable database of planning appeals reveals that MOT testing is normally associated with a Class B2 general vehicle repair use, to which it would be ancillary as found in *Redbridge 21/04/1995 DCS No 041-324-956*. Here it was stated that none of the activities involved in MOT testing were intrinsically different from those arising in the normal course of vehicle servicing, and could be regarded as elements of the same operation.
- 2.8 Given the above and the additional representations that were received prior to the NAPC meeting and reported in the Update Paper, it is considered that it is likely that the previous use of the unit fell within Class B2 of the UCO. Class B2 uses include the carrying on of an industrial process other than one falling within Class B1. As such, Class B2 uses are not considered to be compatible with the amenity of residential areas.
- 2.9 Criterion b) of policy LE10 sets out that an alternative use will be permitted provided that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents. It is considered that an alternative Class B2 use could operate from the unit without the need for planning permission that would be much more harmful than the previous use and could create additional, significant harm to both the character of the area and the amenities of residents. As such criterion b) has been satisfied.
- 2.10 Policy LE10 requires that where criterion b) is satisfied, development for an alternative use will be permitted provided that it would not have a significant detrimental impact on the operation of the remaining occupiers of the site. It is considered that the proposed use as a kitchen showroom would not be a use that would generate a significant level of noise, traffic or disturbance to nearby occupiers or local residents and that the proposed change of use would not have a significant detrimental impact on the operation of nearby occupants. As such criterion c) has been satisfied.

2.11 In conclusion the proposal would satisfy criterion b) and c) and would therefore be in accordance with policy LE10. It is therefore recommended that subject to appropriate conditions, the proposed development would be acceptable.

3.0 **CONCLUSION**

3.1 The proposal is considered acceptable. The application has demonstrated that there is a reasonable likelihood that the previous use of the unit fell within Class B2 of the UCO. As such it is considered that a future use of the unit could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10. It is considered that the proposed change of use would not have a significant detrimental impact on neighbouring occupants with regard to criterion c) of policy LE10 and is therefore acceptable.

4.0 **RECOMMENDATION OF NORTHERN AREA PLANNING COMMITTEE PERMISSION**

5.0 **REVISED RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING PERMISSION**

PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
2. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan, number P01 C.
Reason: For the avoidance of doubt and in the interests of proper planning.**
3. **The use hereby permitted shall only open for business between the hours of 08:00 to 17:00 Monday to Friday, and 09:00 to 13:00 Saturdays, and at no time on Sundays or Public Holidays.
Reason: In the interest of the local amenities and the character of the area in accordance with policy E8 of the Test Valley Borough Revised Local Plan DPD.**
4. **The workshop in the rear of the unit shall remain in ancillary use to the wider use of the kitchen showroom and shall not be operated separately.
Reason: In the interest of the local amenities and the character of the area in accordance with policy E8 of the Test Valley Borough Revised Local Plan DPD.**
5. **The development hereby permitted shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear in accordance with the approved plan. This space shall thereafter be reserved for such purposes at all times.
Reason: In the interests of highway safety in accordance with policies T1, and T2 of the Test Valley Borough Local Plan DPD.**

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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APPENDIX A

Officer Report to Northern Area Planning Committee on 26 October 2017

APPLICATION NO.	17/02182/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	21.08.2017
APPLICANT	Mr Pearce, Abbotts Kitchens (Gainspace Limited)
SITE	Unit A And Part Unit B, 2 The Avenue, Andover, SP10 3EL ANDOVER TOWN (MILLWAY)
PROPOSAL	Change of use to Kitchen showroom, replacement doors, works to the facade (Resubmission)
AMENDMENTS	Emails received 04.09.2017, 21.09.2017 & 03.10.2017
CASE OFFICER	Mr Oliver Woolf

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is presented to the Northern Area Planning Committee at the request of a Member for the reason of “public interest as almost every house in the Avenue is supporting the application and it needs a committee hearing”.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is a single storey unit with W shaped roof located within a Residential Area of Special Character at the bottom of The Avenue, close to Andover Train station. The unit was vacant and in a poor state of repair, but was being re-roofed and had new glazing installed within the existing openings on the front elevation on the date the site notice was displayed (31.08.2017).
- 2.2 The unit was previously used as a motorcycle repair/MOT business. The application form and an email received from the applicant’s agent 04.09.2017 confirm that the use fell within Class B1 c) of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 2.3 The unit is attached to a 2.5 storey property that houses a taxi office and car sales business. Immediately to the other side (south) is a dwelling, number 4 The Avenue.

3.0 PROPOSAL

- 3.1 The proposal is to change the use of the unit to a kitchen showroom. The proposal is similar to that refused in August 2017, with the difference being 48 square metres at the rear of the unit being set aside as a workshop area to support the business. The Economic and Planning Statement that supports the application sets out that the proposed change of use would be to a Sui Generis use.
- 3.2 The company would relocate from their existing premises on East Portway where the lease has expired. 4.5 members of staff would be employed within the showroom (2x sales, 1x admin, 1x director and 1x part time sales/admin).

Other members of staff who would install kitchens would be fully mobile. One of these members of staff is stated as potentially working in the proposed workshop where fabrication of some of the kitchen units to be fitted would take place.

- 3.3 The proposal would also make changes to the external appearance of the building. These would include the installation of new glazing and the rendering of the gable ends of the building that face onto The Avenue. As set out in paragraph 2.1, these works have already begun.

4.0 **RELEVANT HISTORY**

- 4.1 TVN.00763/3: Change of use of part of building to Motorcycle MOT Test Centre including reception area, provision of external door and window on western elevations and partial closure of workshop bay fronting The Avenue. Permission subject to conditions 20.03.2002.

- 4.2 17/01198/FULLN: Change of use to kitchen showroom, replacement doors and works to the façade. Refused 25.08.2017

1. The application site has a lawful employment use. The application fails to demonstrate that the site is no longer required to meet the economic development needs of the area with regard to criterion a) of policy LE10 of The Test Valley Borough Revised Local Plan 2016. The application also fails to demonstrate that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10 of The Test Valley Borough Revised Local Plan 2016. Accordingly the proposal conflicts with policy COM2. Furthermore, the application fails to demonstrate that the benefits of the proposed change of use could not be demonstrated by another Class B use.

5.0 **CONSULTATIONS**

- 5.1 **TVBC Policy – objection**
Supplementary comments 05.09.2017
Position Revised:

Following on from our previous conversation and from reading the notice of refusal for the previous application for this scheme (17/01198/FULLN) the following conclusion has been determined. As noted in the notice of refusal, the site has lawful employment use; and while the retention of some Class B1/2 use (48m²) has been maintained on site the proposed use on site remains predominantly Sui Generis (120m²) resulting in an alternative use planned for the site; therefore the application will need to be considered against Policy LE10.

With regards to criterion a) the lack of any marketing material to keep a similar use class on the site fails to demonstrate that it is no longer economically viable for such employment use to remain on the site. Additionally there have been inconsistencies identified in the application with regards to the number of employees that are proposed, this is also an important material factor.

Finally there has been no evidence provided to demonstrate whether the retention of a Class B1/2 usage on site could not also provide similar benefits to those being proposed in this application.

It is because of the above points that it cannot be determined that the site currently no longer meets the economic development needs of the area, therefore until such evidence has been provided that a Class B1/2 use is no longer suitable for this site criterion a) has not been met, or a case made to justify why the proposal should be considered favourably although contrary to Policy LE10.

The other elements of the original policy response dated 25/08/2017 referring to policies COM2 and E4 remain valid.

Original comments 25.08.2017

Policy COM2: Settlement Hierarchy – The site lies within the settlement boundary of Andover. Within settlement boundaries the principle of development will be permitted provided that it is appropriate to the other policies of the Local Plan. The site does however fall within a Residential Area of Special Character (Policy E4).

Policy E4: Residential Areas of Special Character (RASC) – Development within RASCs will be permitted provided that: a) the resulting sizes of both the proposed and remainder of the original plot, when subdivided, are not significantly smaller than those in the immediate vicinity, and b) the development's size, scale, layout, type, siting and detailed design are compatible with the character of that RASC. This is an application for a change of use with no plans to subdivide the site, therefore the application satisfies criterion a). With regards to criterion b) while the size, scale and siting of the site are not significantly altering it is recommended that the Landscapes team is consulted with regards to the impact on the RASCs.

Policy LE10: Retention of Employment Land – criterion a) refers to land being no longer required to meet economic development needs of the area, while the application proposes a change of use to Sui Generis, as no products are taken off site the class use is not considered to be A1 retail. The applicant has stated the area allocated for the showroom has been reduced and a workshop retained at the rear, maintaining an element of B2 use on site. A letter from the estate agents Austin Hawk explained that while the site was not placed on the open market it was considered that the site was no longer suitable for B1/B2 use due to the condition, location and physical factors; also the buildings position in close proximity to a residential area. It would be for the case officer to consider whether LE10 b)/c) have been triggered.

Other pertinent policies within the RLP (including those within the COM/LE/E/T sections) should be taken into account in so far as relevant.

5.2 TVBC Highways – no objection subject to conditions

5.3 TVBC Environmental Protection

I can confirm that we have no record of complaints regarding noise from this address.

6.0 REPRESENTATIONS Expired 21.09.2017

6.1 Andover Town (Millway) Council – no objection

6.2 1x emails, 1 The Avenue – support

- The proposed business will improve the character of The Avenue
- The site is not suitable for any industrial uses because these forms of use tend to produce noise, pollution and parking on the pavement.
- Previous uses have not been successful.
- The motorcycle MOT business was less intrusive, but still noisy.
- The main problem is the lack of repair to the building which has degenerated enormously over the years and is only being put right now by Abbotts Kitchens.

7.0 POLICY

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016) (RLP)

COM2: settlement hierarchy

LE10: retention of employment land and strategic employment sites

E1: high quality development in the borough

E4: residential areas of special character

E8: pollution

LHW4: amenity

T1: managing movement

T2: parking standards

8.0 PLANNING CONSIDERATIONS

8.1 The main planning considerations are:

- The principle of development
- The impact on the character of the area
- The impact on amenity
- The impact on highway safety and parking standards
- Other matters

8.2 The principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 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.

- 8.3 The application site is within the boundary of a settlement within the Revised Local Plan maps. The proposal would be acceptable in principle, with regard to policy COM2, subject to being appropriate to the other policies of the Revised Local Plan.
- 8.4 Paragraph 6.48 of the RLP sets out that the Council recognises that the needs of businesses change over time and that some sites will no longer be suitable as locations for all forms of economic activity. This is demonstrated through the requirements of policy LE10, which sets out that on existing employment sites, an alternative use will be permitted provided that:
- a) The land is no longer required to meet the economic development needs of the area; or
 - b) The current activity is causing, or could cause significant harm to the character of the area or the amenities of residents; and
 - c) It would not have a significant detrimental impact on the operation of the remaining occupiers of the site.
- 8.5 For the purpose of the RLP and policy LE10, employment uses/sites are considered to be those within Class B of The Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO). The statement that supports the application sets out that the unit has an existing Class B1 c) use that would change to a Sui Generis use. A Sui Generis use is one that does not fall into any of the classes set out in the Order. Although Sui Generis uses can generate employment, they are not considered to be employment uses. For the purposes of policy LE10 it is considered that the proposed use would be an alternative (non employment) use, as it does not fall within Classes B1, B2 or B8 of the UCO.
- 8.6 Paragraph 6.51 of the supporting text to policy LE10 sets out that the Council expects evidence to show that positive marketing of the site has been undertaken to satisfy criterion a). The statement that supports the application makes the assumption that Austin Hawk Estate Agents provided some of their clients with the details of the property. However, the letter from Austin Hawk (dated 07.08.2017) included with the application states that no marketing on the open market was undertaken. As such, it is considered that no positive marketing of the site has been undertaken and that it has not been demonstrated that the land is no longer needed to meet economic development needs of the area. Criterion a) of policy LE10 has therefore not been satisfied.
- 8.7 Where criterion a) of policy LE10 is not satisfied, criteria b) and c) can be considered. The unit is set within a residential area and has dwellings in close proximity, including immediately to the south. The statement that supports the application sets out that the existing use of the unit is Class B1 c). The UCO states that Class B1 uses are those that can be carried out in any residential area without detriment to the amenity of that area.

- 8.8 The letter of support received 24.08.2017 sets out that the motorcycle MOT business was less intrusive than a previous use of the unit, but that it was still noisy. However, no complaints of noise or any other factor that could cause disturbance that would be harmful to the character of the area or the amenity of residents have been reported to the Council or reported to the Environmental Protection team. As such, it is considered that it has not been demonstrated that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents and that criterion b) of policy LE10 is not applicable in this instance.
- 8.9 That criterion b) is not applicable means that criterion c) need not be considered.
- 8.10 In conclusion it is considered that the proposal is not in accordance with policy LE10.
- 8.11 **The impact on the character of the area**
The building was being re-roofed and part of the proposed works to the building (installation of new glazing) had taken place on the date the site notice was erected. Further changes to the elevation that faces onto The Avenue are proposed in the form of the rendering of the gable ends. It is considered that such changes to the building would complement the character of the area and would be compatible with the character of the Residential Area of Special Character with regard to policies E1 and E4.
- 8.12 **The impact on amenity**
The previous use, as Class B1 c) is one that can be carried out in any residential area without detriment to the amenity of that area. It is considered that the proposed use as a kitchen showroom would be unlikely to have a greater impact on the residential amenity of the area than the previous use and that factors that could impact adversely on the residential amenity of the area, for instance opening hours and illumination of the shopfront, could be controlled by condition. Subject to conditions, it is considered the proposal would be in accordance with policies E8 and LHW4.
- 8.13 **The impact on highway safety and parking standards**
The application site includes a large area of hardstanding to the rear and is in an accessible location, in close proximity to the Andover train station and the bus stops that serve it. The Council Highways Officer considers that the level of parking provision would be equivalent to the previous Class B1 c) use of the site for which 4 car parking spaces would be required. It is considered that the area of hardstanding would provide adequate off street parking for the parking of in excess of 4 cars and that subject to a condition to secure on site parking, that the proposal would be in accordance with policies T1 and T2.
- 8.14 **Other matters**
As per Section 38(6) of the Planning and Compulsory Purchase Act 2004, determinations must be made in accordance with the development plan unless material considerations indicate otherwise. Any consideration that relates to the use or development of land is capable of being a material consideration.

In this case, it is considered that any material considerations should be specific to the proposed use and not applicable to another Class B1 use in order to outweigh the loss of employment land.

- 8.15 The statement that supports the application sets out a number of points relevant to the needs of the business and the unit:
- The current premises of the business are no longer available.
 - The proposal will not result in a loss of employment.
 - The proposal will secure employment for existing staff and allow expansion of the business.
 - The proposal will provide 48 square metres of workshop space at the rear of the unit.
- 8.16 As set out in paragraph 8.6, no marketing of the unit on the application site for an employment use has been performed. As a result, it is considered that it cannot be established that the points raised in the statement that supports the application could not also be relevant, demonstrated or realised by a business within a Class B1 use, which would retain the whole of the unit for an employment use. Accordingly it is considered that limited weight can be given to points raised in the statement that supports the application. As such, it is considered that it has not been demonstrated that the benefits of the application outweigh the loss of employment land. Consequently the application conflicts with policy LE10 and should be refused.
- 9.0 **CONCLUSION**
- 9.1 The proposal would complement the character of the area and would not have an adverse impact on the residential amenity of the area or highway safety.
- 9.2 However, the application has failed to overcome the reason for refusal of application 17/01198/FULLN, as it has not been demonstrated that the site is no longer required to meet the economic development needs of the area with regard to criterion a) of policy LE10, as the unit has not been marketed. The application has also failed to demonstrate that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10.
- 9.3 Limited weight has been given to the points relevant to the needs of the business and unit raised in the statement that supports the application and the letter of support received. As such, it is considered that these do not outweigh the loss of employment land, as the application has failed to demonstrate that the benefits of the proposed change of use could not be demonstrated by another Class B use that would retain the unit for an employment use.
- 9.4 The proposal conflicts with policy LE10 and therefore policy COM2 of the Test Valley Borough Revised Local Plan 2016.

10.0 RECOMMENDATION

REFUSE for the reason:

- 1. The application site has a lawful employment use. The application fails to demonstrate that the site is no longer required to meet the economic development needs of the area with regard to criterion a) of policy LE10 of The Test Valley Borough Revised Local Plan 2016. The application also fails to demonstrate that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10 of The Test Valley Borough Revised Local Plan 2016. Accordingly the proposal conflicts with policy COM2. Furthermore, material considerations do not outweigh the loss of employment land identified.**

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
-

APPENDIX B

Officer Update Report to Northern Area Planning Committee on 26 October 2017

APPLICATION NO.	17/02182/FULLN
SITE	Unit A And Part Unit B, 2 The Avenue, Andover, SP10 3EL, ANDOVER TOWN (MILLWAY)
COMMITTEE DATE	26 October 2017
ITEM NO.	8
PAGE NO.	110 - 119

1.0 **VIEWING PANEL**

25.10.2017 at 09:30:

Councillors Busk, Brooks, Cockaday, Neal and Preston present.

2.0 **CONSULTATIONS**

2.1 **TVBC Economic Development – no objection**

Economic activity takes many different and changing forms (e.g. trade parks) much of which happens freely through the commercial property market, involving developers, landlords and occupiers.

National and local policy guidance is to support economic growth.

This application, for the replacement of a Class B1c (or sui generis use) by a sui generis use, represents different aspects of economic activity. It also represents business investment in Andover; the creation of new jobs and an upgrading of existing business premises, rather than their loss to housing.

The new investment is also welcome because it is on a prominent site, close to Andover Station, which will receive new signing which will highlight the town centre.

2.2 **REPRESENTATIONS**

1x petition, 52 signatures from residents of The Avenue, Bishops Way and Whynot Lane – support

2.3 **1x letter, 4 The Avenue – support:**

- I got on very well with the owner of the bike shop so I never complained in the past but, the air pollution from the bike fumes was a real problem and the noise from motor bikes continually being revved up was extremely annoying.
- Abbotts planning application will greatly improve the look of 2 The Avenue which has been allowed to fall in to disrepair over the years, creating an eyesore.

2.4 1x email, 35 The Avenue – support:

- It has, only today, come to my notice that TVBC has refused the application for change of use of the two units at the station end of our road.
- I note that within the refusal document available on the planning part of the TVBC website you state:
The application also fails to demonstrate that the current activity is causing, or could cause significant harm to the character of the area or the amenities of residents with regard to criterion b) policy LE10 of The Test Valley Borough Revised Local Plan 2016.
- Anyone who has walked down The Avenue in the direction of the station will be aware that the previous activity - repairing old motorcycles in a dirty, unhygienic and run-down old workshop - was totally out of character with the area and a complete eyesore.
- My interpretation of your refusal documents is that TVBC wish to see that the site continues to be used for, what I would describe as, industrial purposes. I believe you could expect significant opposition from residents if this should occur.

2.5 1x email, 2 The Avenue – support

- I am the owner of Andover Cars and rent the offices next door to the proposed kitchen showroom/workshop.
- As long as we've been here the fumes from the motor bike shop have been coming through the adjoining door and we had to put towels under the door to try to prevent air pollution.
- Continual revving of motorbikes is not conducive to running of our business.
- The business has now relocated to another premises.

3.0 RECOMMENDATION
No change



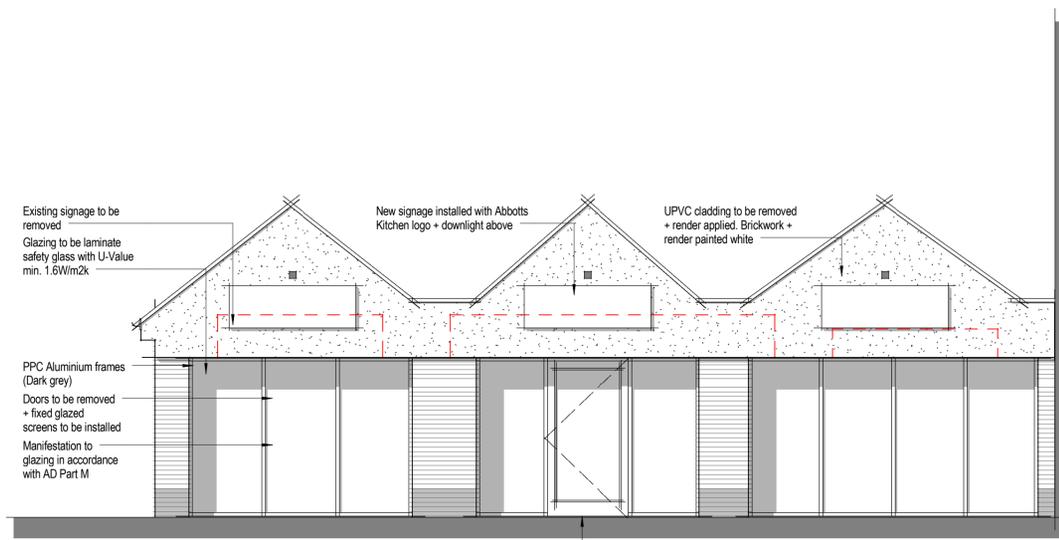
Centremaps licence No. 100019980
SITE LOCATION
1 : 1250



SITE BLOCK
1 : 500



PLAN
1 : 100



PROPOSED FRONT
1 : 50



EXISTING FRONT
1 : 50



Rev	Description	Date
C	Workshop added	18.06.17
B	General update	11.05.17
A	First Issue	03.05.17

Client
Abbots Kitchens

Project
COU, New frontage + signage at 2 The Avenue, Andover

Drawing
Site location, block plan, GA plan + elevations

WHITEROK

www.whiterok.co.uk / +44 (0) 7787304795 / 1256 959610

Scale @ A1
As indicated Date
MAY'17

Project No	Drawing No	Rev
272	P01	C