



**3. The Site:**

- 3.1 Yew Tree Industrial Estate lies to the north of Station Road and the railway, and to the south of the river. The site is accessed via Mill Hall. The unit is one of 12 units set in two blocks facing one another across a central vehicle parking area. Two terraces of residential dwellings lie immediately to the east and west of the industrial estate.

**4. Planning History (relevant):**

TM/84/10087/FUL grant with conditions 3 December 1984

12 light industrial units in two blocks with access and car parking including rear access 55, 57, 59 and 61, Mill Hall

TM/93/00072/FL refuse 28 February 1994

removal of condition 4 of permission TM/84/0883 to allow use of premises after the hours 6pm Monday to Friday and after 1 pm Saturdays and between 5 pm and 11 pm on Sundays

TM/02/03573/FL Refuse 24 January 2003

Change of use from B1 to B8 Use and variation of Condition (iv) of permission TM/84/0883 to allow operations to take place between the hours of 06.30 to 19.00 Mondays to Fridays and 06.30 to 13.00 on Saturdays

**5. Consultees:**

- 5.1 Aylesford PC: Original submission: No objection.

Aylesford PC: Amended plans: No objection to the display and supply of specialist hydroponics equipment to personal callers but object to any extension of opening hours beyond 1pm on a Saturday

- 5.2 Private Reps: 10 + site notice/0X/5R/0S: 5 letters received from one household raising the following objections:

- We have human rights to have a family life of some description.
- If this application is granted it will lead the way for the other 11 units to submit applications to extend their hours.
- The operators were fully aware of the working restrictions, they feel as they are paying high rates they are entitled to work whatever hours they want to, to the detriment of the residents.

- Other units work outside their restricted hours so we only have family time 1 and a half days a week – from (supposedly) 1pm on Saturday until Monday 7am.
- History of breaches being investigated (copy letter from Tracey Crouch MP and TMBC).
- Mr Palmer owns more than one unit which is a breach of planning condition (xv).
- Noise – the closing of the metal shutters, the extra volume of traffic causing nuisance by revving engines and speeding, abuse from drivers when they are told the Unit is closed.

## **6. Determining Issues:**

- 6.1 Planning permission was granted in 1984 for the erection of 12 small units designed for light industrial use meaning that the current use of Unit 12 for the display and supply of specialist equipment constitutes a change of use for which retrospective planning permission is required.
- 6.2 In addition, planning condition (iv) of the original consent limits the hours of operation to 07.00 to 18.00 on weekdays and 07.00 to 13.00 on Saturdays with no working on Sundays or Bank Holidays. The use falls mostly within the operating hours permitted in 1984 but does operate beyond those by opening between the hours of 13.00 to 18.00 on Saturdays.
- 6.3 The site lies within an established industrial estate but it is not land safeguarded for employment use. Despite the element of retail involved with this specific use, it does not rely on footfall as a High Street location would offer. Customers tend to visit specifically, although this falls short of being by appointment only. Whilst I am of the opinion that a range of alternative retail uses may not be appropriate in such a location, I do not consider that the use of the building for the use specified would be detrimental to the operation of the wider industrial estate. There is, therefore, no objection to the principle of the change of use. Any alternative uses, whether they are retail or other, would require formal planning permission in their own right.
- 6.4 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. The policy does not support development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement. Similarly Policy SQ1 of the MDE DPD requires proposals to protect, conserve and, where possible, enhance the character and local distinctiveness of the area.
- 6.5 The proposed change of use does not involve any physical alterations to the unit that would affect its external appearance or its physical relationship with the nearby neighbours. Additionally, it does not involve industrial or manufacturing

processes and will not therefore generate any dust, smell, vibration or other emissions. The application states that the only associated noise is the raising and lowering of the metal shutter doors at the opening and closing times. It is acknowledged that the use generates traffic movements but these are likely to be less than the permitted light industrial use of the unit. The application states that the average number of customers/visitors to the unit is 7 per day. The change of use therefore generates significantly reduced levels of noise and disturbance than that of the permitted light industrial use.

- 6.6 One of the reasons of objection raised by local residents is that the restriction on operating hours was established in 1984. I am aware that a planning application to extend the operating hours at the estate was refused in 1993. However this application related to Sunday evening operating. I am also aware that a further planning application to extend the operating hours was refused in 2002. However, this application related to early morning operation and a change of use to B8 (storage and distribution). In contrast, the current application seeks to extend the operating hours to include Saturday afternoons only, and the application relates to a single unit operating for a limited use as described above. For these reasons, the previous planning history concerning the refusal of planning permission is not directly comparable to the current application. Crucially, these specific circumstances involving a very specific, limited use for the times set out above would not cause harm to residential amenity.
- 6.7 The objectors have raised concern on the basis that the current application, if permitted, would encourage other units at the estate to submit similar applications. Members will be aware that the operators of other units are able, at any time, to submit similar applications and that each would be judged on its own merits at the time of application, having regard to the prevailing planning policies in effect at the relevant time and when considering the location and proposed use of the unit in question, and the precise nature of the operating hours being sought.
- 6.8 Reference has also been made to other alleged breaches of planning conditions. Officers are involved in ongoing investigations regarding the alleged breaches of conditions controlling operating hours at other units on Yew Tree Industrial Estate. These investigations are ongoing but, as a result of the very specific nature of the use and particular hours of operation proposed by this application, there are no direct implications arising from those investigations on the outcome of this current planning application that might prevent determination at this time.
- 6.9 Representations have made specific reference to the applicant's breach of planning condition (xv) of TM/84/883. This condition states that *"no amalgamation or enlargement of any of the industrial units hereby permitted, or the occupation of more than one unit by a single firm, business or operator, shall take place without the prior permission in writing of the Borough Planning Authority."* Their assertion is that the applicant owns more than one unit on the estate. I understand that this is the case. However the planning condition does not relate to land ownership but

to the operation and occupation of the units. The only breach of the condition would arise if the applicant amalgamated the two units within his ownership into a single unit and there is no evidence to suggest this has taken place. Unit 12 is the subject of the current application and seeks to retain its existing use whereas Unit 11 is operated by Maidstone Motoline Ltd for motorcycle repairs.

6.10 With the above considerations in mind and in the absence of any demonstrable harm to local residential amenity arising from the change of use and increased opening hours combined, I recommend that planning permission be granted.

## **7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Planning Statement dated 15.07.2014, Location Plan dated 15.07.2014, Email dated 04.09.2014. subject to the following:

### **Conditions**

1 The business shall not be carried on outside the hours of 07.00 to 18.00 Mondays to Saturdays with no working on Sundays or Public or Bank Holidays.

Reason: To avoid unreasonable disturbance to adjacent residential amenity.

2 The use hereby permitted shall be for the display and supply of specialist hydroponics equipment as detailed in the Planning Statement received 15.07.2014. The unit shall not be used for any other purpose and the operating hours hereby permitted relate only to the use of the unit for the display and supply of specialist hydroponics equipment and are not applicable to any other use.

Reason: To avoid unreasonable disturbance to adjacent residential amenity.

### **Informative:**

1 The applicant is reminded that any future alteration to the use of Unit 12 or the operating hours, other than those hereby permitted, will first require the benefit of planning permission.

Contact: Maria Brown