

<b>Item No</b>	<b>Application No. and Parish</b>	<b>8/13 Week Date</b>	<b>Proposal, Location and Applicant</b>
(2)	11/00434/FUL Hungerford Town Council	20 <sup>th</sup> April 2011	Proposed use of Unit 3 for mechanical car repairs and servicing in association with MOT Testing Station (current) plus surface parking and partial resurfacing of vehicular entrance and provision of farm style security gate (indicative). 3 Smitham Bridge Road Hungerford Mr Neil Benson

**Recommendation Summary:**                    **The Head of Planning and Countryside be authorised to GRANT planning permission.**

**Ward Member(s):**                                Councillors Hewer and Holtby

**Reason for Committee determination:**                    Planning history of site

**Committee Site Visit:**                         22<sup>nd</sup> September 2011.

<b>Contact Officer Details</b>	
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## 1. Site History

119172 (1983). Planning Permission granted for three light industrial units (B1c) - External storage was restricted

147366 (1996) Permission sought to use Unit 1 as an MOT testing station - withdrawn prior to determination.

05/01312 Consent granted for Unit 3 for use as MOT testing station only

06/00360 Application to relax Condition 6 of 05/01312 - refused due to impact on amenity

06/01510 Application to relax Condition 6 (05/01312) - refused due to impact on amenity. Appeal dismissed.

(NB - The Inspector concluded that the removal of the condition would only enable other uses within Class B1 and would not enable B2 use in which Use Class the vehicle servicing and repairs etc would lie. The Inspector was NOT able to determine a fundamental change of use as the application did not seek this).

08/00907 Application to regularise the existing unauthorised use at the site to allow use of Unit 3 for carrying out motor vehicle testing (MOTs) and associated repairs, servicing and maintenance (excluding bodywork and paint spraying) – refused. Appeal dismissed.

(NB - The Inspector concluded that the increase in noisy activities would cause serious harm to neighbour's living conditions. Without evidence he was not convinced that noise and disturbance could be satisfactorily controlled. Limitation in hours of operation could help reduce harm but would not address impact of use).

## 2. Publicity of Application

Site notice displayed 8<sup>th</sup> April 2011. Expiry 29<sup>th</sup> April 2011.

## 3. Consultations and Representations

<b>Town Council:</b>	No objection subject to conditions (tarmac is laid, traffic calming measures, security gate to stop out of hours vehicular access, noise minimised.
<b>Highways:</b>	No objections subject to conditions regarding gate position, layout of parking and informatives.
<b>Environmental Health</b>	Detailed consideration of application including the requirement for a noise survey and acoustic door details. No objections subject to conditions.

**Correspondence:** 4 letters of representation plus two with additional comments/detail to initial comments. Two are concerned at nature of use and disturbance to residential amenity, citing appeal history and Inspectors' conclusions. Concern at accuracy of plans and availability of parking spaces. Prefer gravel track to remain. Speed of vehicles entering site. Control over gate operation. Practicalities of acoustic door operation. Requirement for extraction systems. One concerning the ownership of land, availability of parking spaces and objection to gate (which restricts legal unfettered access to site). One letter of support.

#### **4. Policy Considerations**

OVS2 Core Policy

ECON1 Protected Employment Sites

West Berkshire District Local Plan 1991 – 2006 Saved Policies 2007.

Government Advice contained within PPS1, PPS3 and PPS4

#### **5. Description of Development**

5.1 The application seeks planning permission to use Unit 3 Smitham Bridge Road for MOT testing and mechanical repairs and servicing, in association with the MOT use. It is also proposed to surface the existing parking/ turning area, part of the vehicular entrance and provide farm style security gates.

5.2 The proposal includes the insertion of an acoustic door behind the existing roller shutter door for use during opening hours. The applicant is also proposing a restriction in operation hours [Monday – Friday 8.30 am to 6.00pm, Saturday 8.30am to 1.00pm No Sunday working].

5.3 The authorised use of the site is as an MOT testing Station.

#### **6. Consideration of the Proposal**

The main issues for consideration of this application are:-

Principle of Use

Impact on the amenity of adjoining land users

Parking provision and highway safety.

Principle of Use

6.1 The application site lies within the identified settlement of Hungerford in a small area comprising three small business units (Use Class B1c) arranged around a central parking/yard area, with access leading from Smitham Bridge Road between residential dwellings at Ash Tree Cottage, Step Up Cottage and 7 Smitham Bridge Road. There are additional houses and gardens to the east and south of the site, in an elevated position, and larger scale industrial units to the west of the site at Hungerford Trading Estate. The site is within a Protected Employment Area (ECON 1). The Town of Hungerford falls within the North Wessex Downs Area of Outstanding Natural Beauty.

6.2 The principle of the use of the site for light industrial purposes is well established under earlier permissions including the use as an MOT testing Station. Class B1 uses are defined in part as uses which can be carried out in any residential area without detriment to the amenity of that area. The use of the site for mechanical car repairs and servicing associated with the MOT testing takes the use out of Use Class B1 and into Class B2 (general industrial).

#### Impact on the amenity of adjoining land users

- 6.3 The main concern is whether this use is appropriate adjacent to residential dwellings. Previous appeal inspectors have both dismissed appeals but on slightly different grounds. [Appeal 06/01510 could only determine removal of restriction within Use Class B1 and not allow a change to a B2 use. Appeal 08/00807 concluded that based on the proposal, harm to neighbours amenity from noise and disturbance from increased activity on the site could not be satisfactorily controlled]. Neither appeal proposed any acoustic surveys nor mitigation measures to address the noise and disturbance harm likely to result from a B2 use. Most recently, (Appeal 08/00907) the Inspector was concerned at the serious harm caused to living conditions due to an increase in noisy activities from the proposal. Without surveys/ mitigation schemes he was not convinced that noise and disturbance could be dealt with satisfactorily. The current application is now supported by a noise survey which concludes that with the roller shutter doors closed and an acoustic inner door fitted there will be no significant loss of residential amenity. During consideration of this application, Public Protection Officers have visited the site and negotiated details with the applicant. The mitigation measures are now considered acceptable and address the Inspector's concerns.
- 6.4 Local concern has been expressed by properties on the access to the site of how the doors will be used in practice and disturbance caused by vehicular movements. The applicant has confirmed that hours of use can be restricted and that the doors will be used during operational hours. This can be conditioned. The applicant also proposes gates to restrict out of hours deliveries and resurfacing the access road and car park (both these matters will be considered below). There is no restriction on vehicular movements for any of the B1 uses nor specifically the MOT testing station consent.
- 6.5 Given the complex history of this site the Planning Authority must be satisfied that the proposed use would not unreasonably harm the residential amenity of neighbouring properties. Given the small size of the unit (one MOT bay and two servicing bays); the nature of the proposed servicing/repairs which will be restricted to mechanical with no bodywork or paint spraying; the business is well established and local to the area; the proposed acoustic doors and hours restriction and the location of the premises within a protected employment area, it is concluded that with appropriate conditions amenity will not be demonstrably harmed. These conditions should include a restriction on the type of use within Use Class B2.

#### Highway safety and parking issues

- 6.6 During consideration of this application, concerns regarding accuracy of plans, availability of parking spaces due to ownership issues, the location and use of proposed gates and re-surfacing materials have been raised. These issues have bearing on highway safety of the site. The parking layout has been slightly altered to bring spaces to west away from the large industrial units due to a change in levels

along this boundary. The Highway Officer is satisfied that the access to the site exists and the turning area is within the applicant's control. The parking and turning layout is acceptable, however there is concern regarding the applicant's control over some of these spaces. The applicant has total control over 5 spaces and the turning area. The 7 spaces to the west of the site are not owned by the applicant. It is understood that use and access to these parking spaces for Mr Benson are to be agreed as part of a civil agreement. In terms of the planning decision, the spaces can be secured by condition. If they are not provided then the permission could not be implemented. The applicant does not have to have control over all the land, subject of an application providing correct ownership certificates have been completed. Certificate B has been completed for this application. A condition is therefore suggested.

- 6.7 A farm style security gate has been proposed. Concerns have been expressed regarding a restriction of access to other units within this group and ownership of the land onto which the gate opens. Legal documents indicate that vehicular and pedestrian access is enjoyed by Units 1, 2 and 3 across this land to Smitham Bridge Road. The gates are intended to stop vehicles being delivered out of hours, however this could cause a backing up of vehicles into Smitham Bridge Road. It would also restrict access to Units 1 and 2. It is considered that these gates are not critical to the acceptability of this proposal. A condition to ensure that they are outward opening, to ensure access to parking spaces are not compromised, is suggested. However their provision does not need to be secured. Control over deliveries to Unit 3 can be controlled as part of the restricted hours condition.

## **7. Conclusion**

- 7.1 The proposal would, by virtue of its scale, restrictions of use within Class B2, mitigation measures and car parking and turning areas, not result in demonstrable harm to the amenity of nearby residents nor compromise highway safety. The proposal meets with current development control policies.

## **8. Full Recommendation**

**The Head of Planning and Countryside be authorised to GRANT planning permission subject to the conditions below.**

1. The development hereby permitted shall be begun before the expiration of the date of this permission and implemented strictly in accordance with approved plans.

Reason: To enable the Local Planning Authority to review the desirability of the development to comply with Section 91 of the Town and Country Planning Act (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), should it not be started within a reasonable time.

2. The development hereby permitted shall be carried out in accordance with the following drawings Location Plan received on 1<sup>st</sup> March 2011, Proposed Site Plan SK02 rev B (with dimensions) received by e-mail May 2011.

Reason: To ensure that this permission relates to the revised plans only. In accordance with policy OVS2 of the West Berkshire District Local Plan 1991 – 2006 Saved Policies 2007.

3. The use hereby approved shall be for MOT testing, mechanical servicing and repairs of motor vehicles only and for no other use within Classes B1 or B2 of the Use classes order (as amended). All testing, repairs and servicing will be carried out within the building at Unit 3. There will be no storage of equipment or parts outside the building. Acoustic doors will be fitted and used in accordance with other conditions attached to this permission.

Reason: Planning Permission has been granted taking into account the proximity of the site to residential dwellings and the circumstances of the applicant, an unrestricted B2 use in this locality would not be appropriate. In order to protect the amenities of surrounding residents in accordance with Policy OVS2 of the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

4. The parking and turning space within the site shall be provided in accordance with the approved plans prior to the commencement of the combined MOT testing station and vehicle repairs and servicing use hereby approved. A minimum of 7 car parking spaces shall be made available for Unit 3 at any time. The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided for adequate parking facilities in order to reduce the likelihood of roadside parking which would be a danger to other road users in accordance Policy TRANS 1 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007.

5. The hours of work of the facility, the use of machinery and the delivery/ collection of vehicles for MOT testing, servicing or repair shall be carried out in accordance with the details submitted with the application. These shall unless otherwise agreed in writing by the Local Planning Authority be limited to; 8.30 am to 6.00 pm on Mondays to Fridays, 8.30 am to 12.00 pm on Saturdays, and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In order to protect the amenities of surrounding residents in accordance with Policy OVS2 of the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

6. No servicing or repairs to vehicles shall be carried out at the site until the required acoustic doors have been fitted in accordance with the details provided by the acoustic report (2340\_ENA\_2 dated 10<sup>th</sup> June 2011) and further details contained within the agent's e-mail dated 30<sup>th</sup> June 2011. The operation of the doors will be in accordance with those details, used throughout operational hours of the premises and as clarified in the applicant's e-mail dated 1<sup>st</sup> July 2011. The Acoustic doors shall be fitted and retained in a fully operational order for as long as the use hereby approved continues on the site.

Reason: In order to protect the amenities of surrounding residents in accordance with Policy OVS2 of the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

7. There shall be no paint spraying or body work repairs carried out within the site.

Reason: To ensure that no nuisance or disturbance is caused to the occupiers of neighbouring properties in accordance with Policy OVS2 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007.

8. Any gates to be provided at access, within the application site, where vehicles will enter or leave the site shall open away from car parking spaces on the western side of the site.

Reason: To ensure that there is no obstruction of required car parking spaces, in the interest of road safety in accordance with Policy OVS.2 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007.

## **Informatives**

### **1. Damage to footways, cycleways and verges**

The attention of the applicant is drawn to the Berkshire Act, 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway, cycleway or grass verge, arising during building operations.

### **2. Damage to the carriageway**

The attention of the applicant is drawn to the Highways Act, 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.

### **3. HI 8 Excavation in close proximity to the highway**

In order to protect the stability of the highway it is advised that no excavation be carried out within 15 metres of a public highway without the written approval of the Highway Authority.

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