

WINDSOR URBAN DEVELOPMENT CONTROL PANEL

24 May 2017

Item: 3

Application No.:	17/00425/FULL
Location:	Land To Rear of 250 To 284 Horton Road Datchet Slough
Proposal:	Erection of two new commercial units (Use class B2 - general industrial) within the existing commercial site.
Applicant:	Mr Loveridge
Agent:	Fiona Jones
Parish/Ward:	Datchet Parish/Datchet Ward

If you have a question about this report, please contact: Claire Pugh on 01628 685739 or at claire.pugh@rbwm.gov.uk

1. SUMMARY

- 1.1 While National Planning Policy is supportive of development that helps economic growth, this scheme for two new commercial units would be within the Functional Floodplain (Flood Zone 3b) where this type of development would be unacceptable because of high flood risk.
- 1.2 Further, insufficient information has been provided in order for an assessment to be made as to whether the scheme would retain adequate parking for other operators on site, and whether sufficient space could be provided for service vehicles to the new B2 'General industrial' units. Without this information, it is not possible to assess whether the development would have an acceptable impact on highway safety.
- 1.3 The development is considered to be of an acceptable appearance within the context of this site, and given the authorised use of the site it is not considered the new units would result in a significant adverse impact upon neighbouring residential amenity. However, given the issues surrounding flood risk and transport the application is recommended for refusal.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 9 of this report):

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| 1. | The units are situated within Flood Zone 3b. The units are inappropriate within this flood zone, as set out in the National Planning Practice Guidance and Council's SFRA. The scheme fails to pass the Sequential Test. The scheme conflicts with Paragraphs 100 and 103 of the NPPF, and Local Plan Policy F1. |
| 2. | The application contains inadequate information on existing operators and levels of parking provision on site, and whether the proposed development would impact upon this. The application also fails to demonstrate that adequate parking would be provided for the two new units. Insufficient parking could lead to an overspill onto surrounding roads which would be harmful to highway safety and convenience. |

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Muir, irrespective of the recommendation of the Head of Planning because of the Local Resident's interest.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site relates to land that has planning permission for storage and general industrial use, car wash, sale and fitting of tyres and the repair and maintenance of vehicles. These uses were permitted on appeal in 2011. There are several buildings and structures on the site which are occupied by various businesses. During the course of the application an amended site location plan (depicting the application site boundary) was received which removed an area of land from the application site boundary, as the application site originally included Green Belt land that did not benefit from planning permission for commercial uses.

- 3.2 It was apparent from the site visit that cars are parked on the land where the new units are proposed, although it is not known which operator these cars are in connection with.
- 3.3 The new units would be sited on land that is not within the Green Belt. The land on which the new units would be sited are within Flood Zone 3b (developed) according to the RBWM Strategic Flood Risk Assessment, however, as the land where the new units would go does not have buildings on, the site for the new units is classed as flood zone 3b- functional flood plain.
- 3.4 Close to the application site are residential properties situated on Horton Road.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is set out below.

Application Reference	Description	Decision
12/03165/CONDIT	Details required by condition 1 (details of filtration and extraction system) and 2 (management plan to control fugitive emissions) of planning permission 12/00832 for the retention of a spraybake unit (retrospective)	Approved 20 th December 2012.
12/02312/CONDIT	Details required by conditions 1 (filtration, extraction and stack height), 2 (management plan for dust and VOCs), 3 (noise assessment) and 4 (opening hours) of planning permission 12/00832 Retention of a spraybake unit (retrospective).	Partial approval/refusal 5 th October 2012.
12/00832/FULL	Retention of a spraybake unit (retrospective)	Permitted 22 nd June 2012
12/01340/CONDIT	Details required by conditions 1 b (control of fumes) of Enforcement Appeal Decision 10/00635/ENF Unauthorised c/u of land to various storage and general industrial uses, and formation of areas of hardstanding	Approved 28 th May 2012
12/00829/CONDIT	Details required by conditions 1 b (control of fumes) of the Enforcement Appeal Decision 10/00635/ENF Unauthorised c/u of land to various storage and general industrial uses, and formation of areas of hardstanding	Refused 11 th April 2012.
11/02693/CONDIT	Details required by conditions of the Enforcement Appeal Decision 10/00635/ENF 1 (details to be submitted and approved), 2 (development shall not be carried out, other than in areas delineated on the plan), 3 (hours of business), 4 (noise levels), 5 (site to be used in accordance with the appeal decision and no other purpose, without the prior approval in writing of the Local Planning Authority), 6 (material stored shall not be stacked or deposited to a height exceeding 2.0 metres), 7 (no additional plant or machinery shall be installed on the site under or in	Partial approval/refusal 1 st November 2011

	accordance with Part 8 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended))	
11/03496/CONDIT	Details required by conditions 1i a (site drainage) b (control of fumes) d (one way system) and iv (timetable for implementation) of the Enforcement Appeal Decision 10/00635/ENF Unauthorised c/u of land to various storage and general industrial uses, and formation of areas of hardstanding	Partial approval/refusal on the 31 st January 2012.
10/00635/ENF	Unauthorised c/u of land to various storage and general industrial uses, and formation of areas of hardstanding	Appeal allowed on the 29 July 2011

- 4.2 The application proposes 2 new commercial units for B2 'General industrial' use. The units would be situated between existing units on the site (marked as unit 3 and 6 on the submitted layout plan). Units 3 and 6 are used as a tyre business and car repair and body shop.
- 4.3 The new units would each have a height of around 4.8 metres to the ridge, and 3.4 metres to the eaves. They would each have a width of around 12 metres and a depth of 8.2 metres. There would be a gap of around 1 metre between the new units.
- 4.4 The site layout plan shows new parking areas to be provided for the new units directly in front of these units and also in front of units 3 and 6. A line of tree planting is also shown along the boundary with the rear garden areas on Horton Road that abut the site.
- 4.5 Access into the site is off a one way access that comes off Horton Road, the access out of the site is onto Mill Place.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 National Planning Policy Framework Sections:

Supporting the Economy- Paragraph 19
Flood Risk- Paragraphs 100-103
Transport- Paragraph 32
Design- Paragraphs 58, 60, 61, 64
Securing a good standard of amenity for all- core principle

Royal Borough Local Plan

5.2 The main strategic planning considerations applying to the site and the associated policies are:

Within settlement area	Highways and Parking	Flood Risk	Polluting development
DG1, E6, E10	P4, T5	F1	NAP3

These policies can be found at

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

Supplementary planning documents

5.3 Supplementary planning documents adopted by the Council relevant to the proposal are:

- The Interpretation of Policy F1 (Area Liable to Flooding) Supplementary Planning Guidance (SPG) 2004

Other Local Strategies or Publications

5.4 Other Strategies or publications relevant to the proposal are:

- RBWM Parking Strategy – view at:

More information on these documents can be found at:

https://www3.rbwm.gov.uk/info/200414/local_development_framework/494/supplementary_planning

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Principle of development;
- ii Flood risk;
- iii Neighbouring amenity;
- iv Parking and Highway Safety

Principle of development

6.2 Planning permission was granted for the change of use of land to various storage and general industrial uses, and formation of areas of hardstanding on the area of land shown as the application site in this current application. The area of land where the 2 new commercial units would be sited benefits from planning permission for mixed use for storage and general industrial use. In principle, the siting of these 2 new commercial units in a B2 general industrial use are considered to be acceptable in principle (when looking at policies E1 and E6 of the Local Plan which are considered to be broadly consistent with the aims of the National Planning Policy Framework). However, under policy E6 of the Local Plan the main considerations will be whether the scheme would have an undesirable intensification of activity to the detriment of the local environment, or to the amenities of neighbouring properties. These issues amongst other planning considerations will be considered later within this report.

Flood risk

- 6.3 The Flood Risk Assessment submitted by the applicant identifies that site lies partially within flood zone 2 (medium probability) and flood zone 3a (high risk flooding). However, the site for the two new units and parking areas falls within Flood Zone 3b 'developed' according to the Royal Borough of Windsor and Maidenhead's Strategic Flood Risk Assessment (SFRA) map published in January 2014.
- 6.4 The Royal Borough of Windsor and Maidenheads SFRA defines Flood Zone 3b as areas subject to flooding in events up to the 1 in 20 design event. The SFRA distinguishes between Flood Zone 3b 'Functional Floodplain' and Flood Zone 3b 'Developed'.
- 6.5 Within the SFRA, Flood Zone 3b 'Developed' is defined as existing buildings that are considered impermeable to floodwater. Flood Zone 3b 'Developed' relates solely to the footprint of existing solid buildings. The SFRA explains that the land surrounding these existing buildings are important flood flow paths/and or flood storage, and these must be retained. In accordance with the SFRA, the site is therefore considered to lie within Flood Zone 3b- functional floodplain (as there are no solid buildings on the land where the 2 new units would be situated).
- 6.6 The commercial units are classified as 'Less Vulnerable' in accordance with the National Planning Practice Guidance (NPPG). On this basis, the 2 new commercial units as 'less vulnerable development' on land surrounding existing buildings in flood zone 3b should not be permitted, as per the advice in the National Planning Practice Guidance.

- 6.7 In accordance with the advice contained within the NPPF and NPPG, the Sequential Test should be applied. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The applicant has submitted a Sequential Test which has assessed sites within a 5 mile radius of the application site. The area of search includes sites within other Boroughs, as well as the Royal Borough of Windsor and Maidenhead. The Sequential Test includes Windsor within the area of search, but does not assess sites within this area. For example Shirley Avenue and the Vansittart Estate are both allocated employment sites within the adopted Local Plan where B2 uses can be situated, however, neither of these sites were assessed in the Sequential Test. It is known that there are vacant premises on Shirley Avenue, and it is not been demonstrated by the applicant why this site or its premises are not suitable. Shirley Avenue is situated in the flood zone, but is at a lower risk of flooding than the application site and so would be sequentially preferable in respect of flood risk. It is for the applicant to demonstrate that there are not any other reasonably available sites at a lower risk of flooding. The Sequential Test submitted does not adequately demonstrate that there are no other suitable sites at a lower risk of flooding that could be developed/used and so the scheme fails to pass the Sequential Test. As the Sequential Test has not been passed, no further assessment of the acceptability of the development in the flood zone is required.
- 6.8 Notwithstanding the above, the submitted FRA also fails to assess the impact of climate change (which is a requirement of National Planning Policy), and it fails to demonstrate that the loss of the flood plain storage within the 1 in 100 flood extent with an appropriate allowance for climate change can be mitigated for.

Character of the area

- 6.9 In terms of the siting and design of the proposed units, they would sit in between two existing commercial units on site, and would have a similar appearance to unit 3 ('A and T tyres'). It is considered that the appearance and scale of the proposed units is in keeping with the commercial character of this site.
- 6.10 The plans also show new parking areas to the front of the new units, with 12 parking spaces marked out for both of the new units. There are a number of cars stored on this part of site, although it is not known which existing business on site this is in association with. It is considered that the laying down of the proposed parking areas in a formal arrangement would have an acceptable appearance within this site.
- 6.11 The site layout plan shows the planting of new trees along the boundaries with the rear gardens of properties on Horton Road. There is approximately a 3 metre gap between the new units and the boundary with the gardens on Horton Road. It is not considered that this size gap would allow for trees to grow to maturity to allow for an effecting screening to the units. The scheme is acceptable in terms of character, even if the landscaping is not likely to become established.

Impact on residential amenity

- 6.12 Consideration must be given to the fact that this part of this site has planning permission for mixed use and general industrial, and as such activities in the B2- general industrial use class can take place on this part of the land which would generate a certain level of noise and activity that would have an impact on the amenity of neighbouring residential properties. There is an argument that placing 2 new units in the B2-general industrial use class could result in an intensification of activity on the site, as the units provide cover, and so B2 activities could take place in all weather conditions, whereas such activities on outdoor space could be limited by the weather. Also having the units may allow for equipment/machinery associated with B2 activities to be used that may not be used in outdoor space. However, there is the counter argument that having units to house the B2- general industrial activities may be preferable than having the activity in an area outside, as measures could be applied to the building to reduce noise levels, whereas such measures could not be implemented onto an outdoor area. Ordinarily there would likely be an objection over having units in the B2- general industrial use class in such close proximity to residential properties, however, given the authorised uses on the site and the current level of noise and activity that neighbouring residential properties can experience, it is not

considered that this proposal would make conditions significantly worse to warrant refusal of the application on this ground

- 6.13 The two new units would be sited close to the boundaries with the rear gardens of numbers 264, 270 and 272 Horton Road. Given that these rear garden areas are in excess of 15 metres in depth, taken with the height of the units, and the fact that new units are not situated next to the more private outdoor space of these gardens, it is not considered the units would be unduly overbearing to these gardens.

Parking and Highway Safety

- 6.14 On the application forms it is stated the floorspace of the new buildings would be 214 square metres (combination of 2 units). The current parking strategy has a parking requirement of 1 space per 35m² which gives a requirement of 6.1 spaces to be provided. The site layout plan shows 12 parking spaces, however, it does not show where service vehicles would park on site for these units. Service vehicles would be expected for a 'B2-general industrial use', and this is acknowledged at paragraph 9.8.3 of the Council's Parking Strategy.
- 6.15 There are a number of operators on the site, and the application does not provide information on the floorspace of existing buildings on site, neither does it provide information on the number of car parking spaces each operator on site has. Without this information it is not possible to make an assessment on whether the 2 additional units would be acceptable on transport grounds, as it is not known if they would displace vehicle parking for existing operators, and if so whether sufficient parking would be retained for the other operators on the site as a result of this proposed development.
- 6.16 Insufficient information has been submitted in order to make an assessment of whether the development would have adequate parking provision and whether other operators on the site would have sufficient parking. In addition, the site layout plan does not show that service vehicles can be accommodated to serve the units. It has not been demonstrated that the development would have an acceptable level of parking, and in turn an acceptable impact on the highway network.

Response to interested parties comments

- 6.17 Given the permitted uses on the site, which includes 'B2-general industrial and storage', it is not considered that units within the 'B2- general industrial use class' would result in a level of disturbance and activity from traffic above the permitted uses on site. Conditions could be imposed to restrict times for hours of operation and timing of service vehicles.
- 6.18 All neighbouring properties to the site were sent letters to notify them of the application.
- 6.19 The LPA must consider the proposals put forward under the application.
- 6.20 If the current operators are failing to abide by opening hours, this matter should be reported to planning enforcement, it cannot be considered under the determination of this application.

7. CONSULTATIONS CARRIED OUT

Comments from interested parties

25 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 15th February 2017.

5 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Concerns over noise from B2 industrial units	6.12-6.13
2.	Concerns over noise and disturbance from traffic	6.17
3.	Concerns over the impact on flooding.	6.3-6.8
4.	Unable to find neighbour notification list- have all neighbours been notified?	6.18
5.	What will the units be used for?	4.1
6	Parking on the site is already inadequate for the existing operators, with businesses using the opposite side of Horton Road for parking.	6.14-6.16
7	Is there a way to comprehensively redevelop area, rather than adding on in this way.	6.19
8	Site is a mess to look out onto.	Noted.
9	Concerned when tyre fitting business and spray bake move to bottom of number 276 Horton Road and the impact this will have on their garden.	6.13
10	Current operators fail to abide to operating hours.	6.20
11	The area is struggling with severe traffic congestion, and the 2 new units will exacerbate this.	6.14-6.16
12	Development will contribute to downgrading of the area.	Noted.
13	Current site is a massive eyesore- this development will worsen this.	Noted.
14	Planting of line of trees would be helpful for screening the development, but never before have trees been planted when required.	6.11

Statutory consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	<p>The Environment Agency OBJECTS to the proposed development, as submitted, on the following grounds:</p> <p>We have reviewed the Flood Risk Assessment (FRA) ref 407.05598.00002 (SLR, November 2016, Issue 1).</p> <p>Technical Guidance to the National Planning Policy Framework (NPPF) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application falls within Flood Zone 3b as defined by Royal Borough of Windsor and Maidenhead's Strategic Flood Risk Assessment (SFRA) as having a high probability of flooding.</p> <p>The development type in the proposed application is classified as Less Vulnerable in accordance with table 2 of the Technical Guide to the NPPF. Tables 1 and 3 of the Technical Guide to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.</p> <p>The Royal Borough of Windsor and Maidenheads SFRA defines Flood Zone 3b as areas subject to flooding in events up to the 1 in 20 design event. The SFRA distinguishes between Flood Zone 3b Functional Floodplain and Flood Zone 3b Developed. Flood Zone 3b Developed is defined as existing buildings that are considered impermeable to floodwater. Flood Zone 3b Developed relates solely to the</p>	6.3-6.8

	<p>footprint of existing solid buildings. The land surrounding these existing buildings are important flood flow paths/and or flood storage, and these must be retained. In accordance with the SFRA we therefore consider the site to lie within Flood Zone 3b, the functional floodplain.</p> <p>Only upon successfully overcoming our policy objection should the following objections be addressed.</p> <p>The FRA submitted with this application does not comply with the requirements set out in paragraph 30 part 7 of the Planning Practice Guidance to the NPPF. The submitted FRA does not therefore provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development.</p> <p>In particular, the submitted FRA fails to</p> <ol style="list-style-type: none"> 1. Demonstrate the sequential test has been applied. 2. Meet the requirements of the second part of the flood risk Exception Test. 3. There is no assessment of the impact of climate change using appropriate climate change allowances. 4. Demonstrate the loss of flood plain storage within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development can be mitigated for. 	
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Other consultees

Consultee	Comment	Where in the report this is considered
Highway Authority	<p>To enable the highway authority to make a meaningful assessment of the total parking requirement for the entire site details of each operator together with square meterage needs to be submitted.</p> <p>The application form states the proposal is for 2 new B2 use units. It gives a figure of 214m²; it is assumed this is for both units and not each. The current parking strategy has a parking requirement of 1 space per 35m² this gives a requirement of 6.1 spaces; this appears wholly inadequate as there are to be 7 staff. In addition for light industrial uses we would expect 1 van or lorry space per unit.</p> <p>Vehicle Movements / per day:</p> <p>Exact numbers unknown – However as a general rule B2 attracts vehicle movements at the rate of 10 per 100m² which equates to around 22 per day. Again as there are to be 7 staff this figure appears to be on the low side. A more accurate figure can be derived once all site usage details have been supplied for the parking assessment</p>	6.14-6.16

	<p>Additional Comments:</p> <p>The principle of the proposals is acceptable to the highway authority. However given the levels of curtilage parking and unknown end use the proposals as presented are unacceptable to the highway authority.</p>	
Environmental Protection	<p>No objection, subject to conditions for-</p> <ul style="list-style-type: none"> -Industrial noise -hours of operation -lighting control -Odour control and ventilation - noise containment 	Noted.
Parish Council	No objection.	Noted.
Council's Ecologist	<p>No ecological information was submitted with this application. However, following a site visit, the site was found to be of very low ecological value and comprised bare ground, hard standing and a structure. The structure comprised a metal frame and a flat, corrugated iron roof, which did not contain features that were suitable to support roosting bats. There was no other habitat on site suitable to support other protected species.</p> <p><i>Biodiversity Enhancements</i></p> <p>Paragraph 109 of the NPPF states that: <i>“The planning system should contribute to and enhance the natural and local environment by [...] minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”</i>. In addition, Section 40 of the Natural Environment and Rural Communities Act 2006 states that <i>“Every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”</i>.</p> <p>In order to increase the biodiversity on site, bird and bat boxes could be installed onto the new buildings, if appropriate. Should the Local Planning Authority be minded to grant planning permission, it is recommended that this advice is incorporated into a suitably worded planning condition.</p>	Noted.

8. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B – Site layout
- Appendix C – Elevations

9. RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The new units are situated within flood zone 3b functional floodplain according to the Royal Borough of Windsor and Maidenhead Strategic Flood Risk Assessment. The units are classed as a less vulnerable use, and such a use is identified as inappropriate development within the functional flood plain, as set out in the National Planning Practice Guidance and the Royal Borough of Windsor and Maidenhead Strategic Flood Risk Assessment. The scheme fails to pass the Sequential Test. The scheme conflicts with Paragraph 100 and 103 of the National Planning Policy Framework, and Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted 2003).

- 2 The application contains inadequate information on existing operators and their levels of parking provision on site, and whether the proposed development would impact upon this. The application also fails to demonstrate that adequate parking would be provided for the two new units taking into account service vehicles. It has not been demonstrated that the scheme would provide acceptable levels of parking and would have an acceptable impact upon highway safety. The scheme conflicts with Policies DG1,P4 and T5 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted 2003).