

Application Number: 20/10686 Full Planning Permission

Site: UNIT 24, GLENMORE BUSINESS PARK, LIME KILN LANE,
HOLBURY, FAWLEY SO45 2AR

Development: Use unit 24 as a canine hydrotherapy centre

Applicant: Miss Saberi

Agent:

Target Date: 23/09/2020

Case Officer: Jo Chambers

Extension Date: 12/11/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) loss of employment site to sui generis use
- 2) impact on nearby residential properties

This application is to be considered by Committee because of a contrary view by Fawley Parish Council.

2 SITE DESCRIPTION

Unit 24 is a brand new purpose built industrial unit located within a new industrial estate off Lime Kiln Lane, with planning permission for B1c, B2 and B8 uses. Unit 24 is one of a number of units within the new estate that is restricted to B1c and B8 uses due to its proximity to housing at Harrier Way. The hours of operation of the whole industrial estate are restricted to protect the amenity of these residential properties (08:00-19:00 Mon-Fri, 08:00-13:00 Saturday).

3 PROPOSED DEVELOPMENT

The proposal seeks permission to use Unit 24 as a canine hydrotherapy centre; this involves the use of water for pain relief and physical therapy. Proposed hours of operation are 08:00-19:00 Mon-Fri, 08:00-13:00 Saturday with 1-2 members of staff.

Two car parking spaces are associated with the unit and the applicant has advised that as roller shutter access is not required, an additional space will be available in front of the roller shutter door.

The canine hydrotherapy centre would operate on the basis of pre-booked appointments, each lasting 30 minutes with a gap of approximately 10-15 minutes between appointments.

The applicant has advised that staff are trained in animal behaviour and apply techniques which discourage barking. Dogs will be walked prior to arrival at site, and an enclosed dog waste bin designed to contain odours will be provided /emptied every day.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description
18/11032 4 blocks comprising 24 units (Use Class B1c/B2/B8); parking; cycle/refuse storage; landscaping; fencing	08/04/2019	Granted Subject to Conditions

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy ENV3: Design quality and local distinctiveness
Policy STR1: Achieving Sustainable Development
Policy STR6: Sustainable economic growth
Policy ECON2: Retention of employment sites and consideration of alternative uses

6 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: Recommend PERMISSION

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environmental Health Contaminated Land, Appletree Court – no concerns.

Environmental Health (Pollution) – no comments/conditions. However, the granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

Health and Safety Executive - does not advise against.

9 REPRESENTATIONS RECEIVED

1 letter of objection has been received from a resident at Harrier Way raising the following concerns:

- Increased traffic;
- noise disturbance to residence;
- dogs barking/smells

10 PLANNING ASSESSMENT

The key planning considerations are assessed below.

Highway safety, access and parking

The unit has planning permission for B1c and B8 use. Given that the canine hydrotherapy centre would be run on an appointment basis of 1 dog at a time per half hour appointment, with gaps between appointments to ensure no overlap, it is

considered that the available parking spaces would be sufficient. The amount of activity associated with such a system would not be expected to generate significant levels of vehicular movements. No concern is identified with this aspect of the proposal.

Residential amenity

Concern has been expressed that the proposed use would adversely affect the residential amenity of nearby properties in Harrier Way, in particular with regard to noise and smells. The applicant has explained that facilities will be provided for the disposal of dog faeces, in a bin designed to contain odours and that it will be emptied every day. This is considered sufficient to manage any odour that is likely to arise.

The applicant has also submitted a supporting statement explaining that the hydrotherapy is a soothing experience and does not generally result in barking. Staff are trained in methods to reduce potential vocal episodes. It is considered reasonable that the expertise of the therapist would avoid unacceptable noise levels being generated as part of the canine hydrotherapy. It is noted that the Environmental Health Officer has raised no concerns and has explained the potential for any noise issue to be investigated under environmental health legislation. No concern is identified with regard to this aspect of the application.

Loss of employment site to sui generis use

Unit 24 is an employment site located within a newly constructed industrial estate. A key policy in the determination of this application is Policy ECON2 (Retention of employment sites and consideration of alternative uses). This states that an employment site that remains suitable for employment use will be retained for continued employment use wherever possible. This is a brand new industrial development and is considered to remain suitable for employment use.

Policy ECON2 also states that other uses will be supported provided that:

i. The primary purpose of the use is to provide a supporting service to businesses or to the workforce in the local area; or

ii. For other non-employment uses, it is demonstrated that the employment site is no longer suitable or viable for continued employment use, by submission of proportionate evidence showing that:

- a. The condition of the site or building renders it unsuitable for its present or any other realistic and appropriate employment use, and it would not be viable to refurbish or redevelop the site for an alternative employment use; and/or*
- b. The site has been actively but unsuccessfully marketed for employment use on unrestricted terms fair to potential occupiers and at a realistic price, for a minimum period of twelve consecutive months prior to the date at which the planning application for an alternative use was submitted.*

It is not considered that the proposed canine hydrotherapy use would comply with point i) above. A Canine hydrotherapy use would not be expected to support businesses or the workforce in the local area.

Employment uses are defined in the Local Plan as comprising: industrial, office, business, storage and distribution uses falling within classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and 'sui generis' uses of a similar character. A canine hydrotherapy use is not considered to

be similar in character to these defined employment uses and thus, for the purposes of policy ECON2, can be considered to be a non-employment use. It, therefore, falls to be considered in relation to point *ii*). This calls for the submission of evidence set out in sub-sections a) and b). No evidence has been submitted for consideration. Notwithstanding the lack of supporting evidence on this point, it is considered that this criteria would not be satisfied as this is a newly constructed industrial unit.

Research prepared as evidence for the preparation of the Local Plan Part 1 (Business Needs and Commercial Property Market Assessment 2017), advised that available levels of B1c floorspace were low. The commercial market for business, industrial and distribution uses is characterised by rising take-up, reducing availability and low levels of vacancy. Thus, it is reasonable to expect that there will be demand for the type of unit.

For the reasons set out above, the proposal is not considered to comply with adopted policy ECON2.

11 CONCLUSION

To conclude, the application site is located within newly constructed employment site. The proposed use is not considered to be an employment use as defined in the adopted Local Plan Part 1. No evidence has been submitted to demonstrate that the site is not suitable or viable for employment use as required by policy ECON2. As such, the proposal would result in the unjustified loss of a valuable industrial unit, contrary to policy ECON2.

12 OTHER CONSIDERATIONS

Human Rights

In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

13 RECOMMENDATION

Refuse

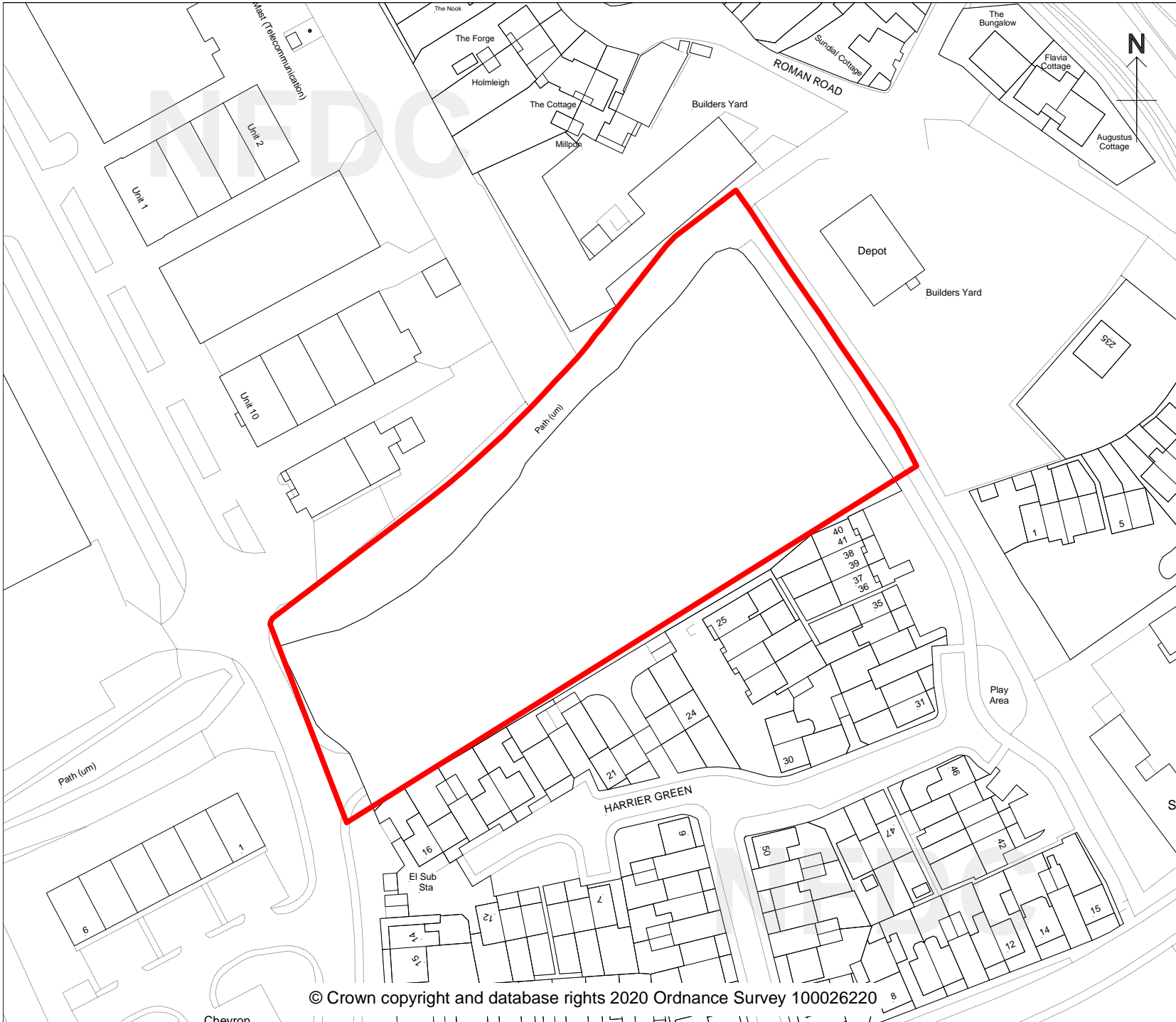
Reason(s) for Refusal:

1. The proposal would result in the loss of a brand new B1(c)/B8 unit to a non-employment use. No evidence has been submitted to demonstrate that the site is not suitable or viable for employment use. Therefore, the proposal would result in the unjustified and economically harmful loss of an existing valuable employment unit, contrary to policy ECON2 of the New Forest District Local Plan 2016-2036 Part 1: Planning Strategy.

Further Information:

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New Forest

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PLANNING COMMITTEE

November 2020

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 Lime Kiln Lane
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 20/10686

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.