

Committee Report

Item 6B

Reference: DC/19/02345

Case Officer: Samantha Summers

Ward: Bures St Mary & Nayland.

Ward Member/s: Cllr Melanie Barrett.

RECOMMENDATION – TO GRANT PERMISSION WITH CONDITIONS

Description of Development

Planning Application - Change of Use from a mixed use of residential & bus depot/workshop (sui generis use) to mixed use of B1 (business) and residential -retention of

Location

Knowle House, Church Square, Bures St Mary, Bures Suffolk CO8 5AB

Expiry Date: 11/07/2019

Application Type: FUL - Full Planning Application

Development Type: Change of Use

Applicant: Amobox

Agent: Pomery Planning Consultants Ltd

Parish: Bures St Mary

Site Area: 0.28Ha

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member (Appendix 1): No

Has the application been subject to Pre-Application Advice: Yes with the Planning Enforcement Team

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

The Chief Planning Officer considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council and planning substance of comments received from third parties and nature of the application.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

TP15 - Parking Standards - New Development

EM01 - General Employment

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS15 - Implementing Sustainable Development
NPPF - National Planning Policy Framework

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Town/Parish Council

Bures St Mary Parish Council objects to the application to change the permission for use of the former Chambers Bus garage from Sui Generis to B1, B2 Industrial Use, B8 and residential.

The site at Knowle House, Bures St Mary, was until 2012, the base for Chambers Buses. Chambers was a well-respected village business that had been operating since 1877. The Chambers family lived on site and the business had a good reputation and was a great asset to the village. As a bus garage and workshop there was noise from time to time during the day but was originally at a level in keeping with the sui generis category. However, should a new bus company seek permission to open on such a site today it would be unlikely that it would be allowed. It is therefore a specious argument to refer back to the previous use as a reason for permission for general industrial use under this application.

This application for change of use is in order for the current tenant and any future tenant to carry out work unsuited to a site which is in a residential area in the centre of the village. As a Parish Council we welcome business and enterprise within the village. However, the B2 category is not one that can be accommodated within the conservation area of the village centre and within sight and sound of a Grade 1 listed church and several Grade 2 listed houses. The Planning Portal differentiates between B1 and B2 in B1 being light industry appropriate in a residential area and B2 being general industrial which, in 2019, would be carried out on an industrial estate or at a site away from people's homes.

The current tenant, AMOBOX Dragon Ovens has been carrying out work which falls into the B2 category since opening in the village. The Parish Council sees Amobox as a successful company doing well in its field and would like to see them have a positive future. However, their own website openly admits that their work should not be carried out under the current permission Extract from the website

The Factory

We undertake all manor (sic) of steel fabrication work specializing in bespoke trailers, made to order.

All manner of steel fabrication work is the cutting and grinding of the metal of vehicles being converted to new uses. There is also the issue of subsequent use of bodywork filler, gluing and spraying with paint. Some or all of these materials are reported to have fumes indicating them to be solvent borne. None of these processes should be happening on this site. It is very important that permission is not given for a business which can cause harm to nearby residents by noise or fumes. B2 permission would mean that this and any subsequent tenant would legitimately be allowed to undertake work which would be detrimental to our parishioners.

We strongly contend that this permission should not be granted.

In addition to the assertions above we would like to point out omissions in the application. Under section 20 Industrial or Commercial Processes and Machinery, NA has been entered as the response. The proposal is asking for permission for industrial processes including grinding of metal. Under 21 Hazardous Substances the answer given is No. The fumes from glue, body filler and paint spraying indicate otherwise.

It is also important to note that giving permission for this change of use would have a damaging impact to the proposed extension to the Dedham Vale Area of Outstanding Natural Beauty.

County Council Responses

SCC – Highways

No objection subject to standard conditions.

Internal Consultee Responses

Environmental Health - Noise/Odour/Light/Smoke

Fumes and Odours

Concerns with regards to fumes and odours from painting, gluing and a fibre glass process have been raised. These processes are small in scale with the paints and floor material glue used on flooring is no different to materials for the same purpose in domestic settings. The levels of paint (which are modern water based paints introduced following the solvent emissions directive) are significantly below levels that would require an environmental permit to control potential environmental impacts and the process has been observed and did not raise concerns of offsite impacts.

No odours or fumes have been observed at nearby premises and are not of a nature that would require special measures to abate a problem beyond normal health and safety duty of care measures to protect the workers carrying out the operation themselves.

A new plasma cutter discussed in the section on noise has the necessary filters to capture the fumes produced from the process.

Noise

An updated noise assessment has been undertaken by Sharps Gayler following a change in one of the noisier working processes . Following the previous assessment a meeting was held with the applicant, the occupiers and the acoustic consultant to address the concerns raised by environmental protection. One of the actions suggested by the operator was to minimise the on time of the highest noise process of using a hand held circular cutting saw to cut a large rectangular shape opening in the metal side of a container (or similar unit), the business has started using a plasma cutter which eliminates the cutting saw/grinder except for a minimal rounding of corners the four corners of the opening. In addition rattler guns are no longer used on site Noise readings were confirmed for the old and new cutting processes as well as confirmation of noise levels for other processes previously measured within the workshop.

This was witnessed by myself and other officers of the council and I took side by side validation measurements to confirm/validate the consultant's measurements. Following the test to identify the noise levels on individual processes the consultant deployed static sound level meters (SLM) that were left in situ for 7 days to obtain typical working week sound levels. One SLM was deployed inside the workshop and another on the northern boundary of the site. In addition Environmental Protection deployed their

own SLM in a normal daytime habitable area of a residential dwelling for the 7 days when the consultants survey was being undertaken and left for an additionally 5 days without the knowledge of the business operator or their representatives.

Sharps Gayler have updated the BS4142:2014 (+2018) assessment using the additional data and re-calculated the time weighted average to produce the Noise rating level as guided by the British Standard methodology to account for the use of the plasma cutter and in consideration of the information from the internal/external noise survey to minimise the uncertainty of the assessment.

The survey has shown that the building structure is only providing 25dB sound reduction compared to the 30dB previously assumed based on the construction of the building.

The Noise Rating level is not the short length maximum noise level produced by a premises or process. Estimations of the on time of each noise element of a work process have been made based on typical operations, observations of the consultant and information gained during the noise survey.

BS4142 requires consideration of any potential uncertainty from measurements, calculations or nature of operation. this is considered in table 2 of the report and states:

There is some residual uncertainty in that activity levels are extremely unpredictable, albeit it is considered that the assessment represents a maximum level of activity based on the current operator, and have now been verified by a survey of internal activity sound levels lasting an entire typical working week. The range of levels used in the assessment, along with internal and external measurements has been successful in reducing uncertainty from the previous assessment position.

Environmental Protection have undertaken a number of visits to the site and the surrounding area in addition to the 12 day deployment of our own sound level meter. We have no evidence to question the on time of the equipment listed in the report or the statement on uncertainty. As such I am satisfied that the BS4142 assessment has been carried out in an appropriate manner.

The Noise Rating level of typical working is at 0dB above background (including a +3dB penalty for the character of the noise) and as such is not considered to have a significant adverse effect for daytime activities only.

I therefore have the following concerns:

- There is likely to be a significant adverse effect during the evening and night-time hours when background noise levels are in excess of 10dB quieter than daytime.
- Unrestricted B2 use could cause significant loss of amenity from new occupiers of the site.

I have no objection to any B1 use but consider that unrestricted B2 or B8 use should not be permitted.

I therefore have no objections due to noise, or other environmental impacts providing the following conditions (or similar conditions worded to the same effect) are applied should permission be granted.

Conditions

- The use hereby permitted shall only be open during the following times:

Monday to Friday: 07:30 to 19:30

Saturdays: 08:00 to 13:00

Sundays/Public Holidays: None

- Noisy operations (such as those involving the use of powered equipment such as Aluminium saw, Steel saw, Grinders, Rattle gun, compressors or equipment powered or otherwise likely to emit similar noise levels) shall only be carried out between the following hours:

Monday to Friday: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays/Public Holidays: None

• The B2 use of the premises hereby permitted shall be restricted to the current occupier only.

Heritage Team

The Heritage Team has no comments to make on the above application.

Enforcement

Thank you for consulting Planning Enforcement. I can confirm I have a current Enforcement Case for the site in relation to the change of use from Sui Generis to B2.

Economic Development & Tourism

The Council's Sector Needs Assessment 2017 notes that Babergh has the highest figure for manufacturing employment of 4,980, which represents 15.9% of total employment. VOA business floorspace statistics indicate that industrial floorspace supply (typically associated with manufacturing and related businesses) has decreased in the Ipswich Economic Area (IEA) over recent years. In Babergh between 2001 and 2017, 17k sqm have been lost to other uses, and in 2017 this was around 2.7%pa.

Industrial demand spans all size categories, although the main driver has traditionally been for small to mid-sized workshop units (typically ranging between 5,000sq.ft/465sq.m and 20,000sq.ft/1,860sq.m). Demand is also steady for small industrial premises below 5,000sq.ft/465sq.m which tend to cater for the start-up end of the market. Whilst the Economic Area has a sizeable stock of industrial accommodation, supply has continued to tighten as available stock is taken-up and limited new development has been completed in recent years.

[Although manufacturing is broadly in decline] It should be noted that not all parts of the manufacturing sector are set to decline. New Anglia LEP's SEP outlines that advanced manufacturing and engineering is one of the key growth sectors within the LEP area. The industry is worth £1.5bn GVA per annum to the local economy and employs 24,500 people.

Accordingly, the team considers that the continued use of existing employment premises such as the subject site is an essential part of the availability of premises and the continued prosperity offered by local employers such as this. With suitable conditions, the development can continue to operate from its established premises that enjoy a lawful employment use.

B: Representations

At the time of writing this report at least 18 letters/emails/online comments have been received. It is the Officer's opinion that this represents 13 objections. A verbal update shall be provided as necessary.

Views are summarised below:-

- Health and safety
- Noise
- Building not fit for purpose
- Fumes
- Highway safety
- B2 use inappropriate in residential area
- Vibrations to neighbouring properties
- Inaccuracies in submitted reports
- Work carried out at the premises in unsociable hours

- Impact on listed buildings and conservation area
- Leaving large front doors open

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: B/0005/75/FUL	6 detached dwellings and 1 pair semi-detached dwellings with garages	DECISION: GRA 16.05.1975
REF: B/0006/75/OUT	Erection of 4 flats and 4 garages as amended on the 29th April 1975	DECISION: GRA 16.05.1975
REF: B/0883/79/FUL	Erection of new replacement garage.	DECISION: GRA 05.10.1979
REF: B/0128/76/FUL	Alterations and extensions	DECISION: GRA 07.05.1976
REF: B/0084/79/LBC	Demolition of non-listed building in conservation area - existing garage building.	DECISION: GRA 08.10.1979
REF: BIE/16/01521	Duty call back - 14/09/16 - Change of use from bus depot to auction house	DECISION: ECP 14.09.2016
REF: B//90/00684	ERECTION OF BUS CLEANING PLANT	DECISION: GRA 27.06.1990

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1 The application site comprises a large workshop building which includes a wing that is used for office space and living accommodation and an external yard area. The site is in the heart of the village of Bures St Mary. This area of Bures is in the historic core and has many Listed Buildings near to the site and is within the Conservation Area. The properties surrounding the site are largely residential.
- 1.2 The site has an existing use of bus depot/workshop (sui generis). The application site was established as a bus depot by H.C. Chambers and Co in 1877, operating initially with horse drawn buses and carts, before motorised vehicles were introduced in 1918. The Chambers Bus Company is said to be the oldest bus company in the UK. Chambers were acquired by the Go-Ahead Group in May 2012 and the last bus to operate from the Bures Depot returned from its route in June 2012. Chambers continues as a public transport business, operating local routes under its new ownership from their depot is Sudbury.

- 1.3 The Bures depot was HQ for the business for some 142 years and included bus garaging and workshops, which were used to maintain its fleet. Buses were stored on the site when not on routes and were maintained and washed, using a bus washing machine which is still on the site located in the yard. The company's offices were contained within the site and the workshops were fully equipped with inspection pits and specialist equipment, capable of the complete overhaul of a double decker bus, engine removal, coach buildings and painting etc.

2.0 The Proposal

- 2.1 This application has been received following an investigation of the site by the Planning Enforcement Team. This application seeks retrospective planning permission for a change of use of the site from bus depot/workshop (sui generis) and residential to B1 use (business) and residential. The residential unit is attached to the southern wing of the building that is used as offices. The unit consists of a living room, kitchen store and WC at ground floor level and three bedrooms and a bathroom at first floor level.
- 2.2 This unit has been in place for many years and is believed to have been in place before the "Appointed Day" of 1st July 1948, when the current Planning system came in to being. It is thus far beyond any enforcement action. There is no defined garden to the residential unit.
- 2.3 Parking for the site is located within the large yard area of the site.
- 2.4 The workshop building is large and sits at the bottom of the hill, with most of the neighbouring properties to the north and east being elevated from the site. The workshop building is a traditional bus depot with large double doors which open onto the public highway. The building is prominent in the street-scene. The workshop is of single skin construction.
- 2.6 The current occupiers of the site started operating at the site in 2017. Amobox carry out conversion of metal containers (similar to shipping containers, but smaller and thinner metal that are purpose made) and motor vehicles into mobile units for catering and entertaining. Normal process is that the container will arrive on site, a hole is cut in the side of the container that will be used as a serving hatch. The container is then fitted out with storage and catering equipment on the site. The containers normally arrive on the site already painted. Some "touching in" where the metal cuts occur is necessary, but painting is not a usual practice on the site. Cutting of wood and metal are practices that are carried out on the site.
- 2.7 The Site Area is 0.28 ha.

3.0 The Principle of Development

- 3.1 The starting point for any planning decision is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF) 2019.
- 3.2 The age of policies itself does not cause them to cease to be part of the development plan or become "out of date" as identified in paragraph 213 of the NPPF. Significant weight should be given to the general public interest in having plan-led decisions even if the particular policies in a development plan may be old.

- 3.3 Even if policies are considered to be out of date, that does not make them irrelevant; their weight is not fixed, and the weight to be attributed to them is within the remit of the decision taker. There will be many cases where restrictive policies are given sufficient weight to justify refusal despite their not being up to date.
- 3.4 The relevant policies for this application are policies TP15 and EM01 of the Babergh Local Plan 2006 and policies CS01 and CS15 of the Babergh Core Strategy 2014. These policies are given full weight and are consistent with the aims of the National Planning Policy Framework.
- 3.5 Policies EM01 and CS15 seek to ensure that employment is protected and that the local economy is strengthened and diversified. These policies are consistent with paragraphs 80 and 83 of the NPPF which seeks decisions that create conditions where businesses can invest, expand and adapt.

4.0 Nearby Services and Connections Assessment of Proposal

- 4.1 Bures St. Mary is a small village with good connections to Sudbury which has a wide range of services available.

5.0 Site Access, Parking and Highway Safety Considerations

- 5.1 The application does not seek a new access. Existing access points are used for the business. The change of use would result in a reduction of traffic movement to that of the previous use as a bus depot which had around 30 buses on the site.
- 5.2 Suffolk County Council Highways have raised no objection to the scheme. They have requested some standard conditions to safeguard parking and turning areas on the site and also details of the bin storage areas.
- 5.3 However, this is a retrospective application and it is not considered necessary for these conditions to be applied to an approval as this use has been in place for at least two years without any issues. The yard area is large and there is sufficient parking on the site for employees and visitors (Members are reminded that the site used to accommodate 30 buses).

6.0 Design and Layout

- 6.1 No external changes to the building are proposed by this application

7.0 Landscape Impact, Trees, Ecology, Biodiversity and Protected Species

- 7.1 This is not a constraint of this application.

8.0 Land Contamination, Flood Risk, Drainage and Waste

- 8.1 This is not a consideration of this application.

9.0 Heritage Issues Including The Impact on The Character and Appearance of the Conservation Area and on the Setting Of Neighbouring Listed Buildings

- 9.1 The application site is within a Conservation Area and has Listed Buildings within close proximity to the site. There are no external changes included in this application. The site has an existing business use which is historic as a bus depot and workshop. The proposed change of use is to

use the site as a workshop for the conversion of metal containers into mobile food units. The Heritage Team do not consider that this change of use will impact the setting of the Conservation Area or the Listed Buildings.

10.0 Impact on Residential Amenity

- 10.1 Many of the objections from both local residents and the Parish Council relate to impact on residential amenity. Indeed, this issue was raised with the Planning Enforcement Team which lead to an investigation of the site which lead to acknowledgement of the breach of planning.
- 10.2 Noise has been raised as a major concern of local residents. A noise survey did accompany the application and was considered by the Environmental Protection Team. They had these comments to make on the application, "I have some concerns over noise from the proposal. Additionally a complaint has been made about the operation although no nuisance or significant impacts have been proven by officers from Babergh District Council at this time.
- 10.3 The applicant has submitted a BS4142:2014 assessment carried out by Sharps Gayler LLP who are competent acoustic professionals with experience of BS4142 assessments of this nature. The noise survey has identified a generally low to moderate impact of combined noise measured over time as required by the assessment methodology. Short term high noise operations such as the use of grinding and metal sawing equipment are likely to have a more significant level of audibility when openings are being cut into containers and units.
- 10.4 The assessment has shown that the combined noise rating level is below the significant observable adverse effect level (SOAEL) and therefore should be permitted with mitigation. This is further supported when considering the context of the area (large permitted bus depot) with a busy through road giving rise to high ambient noise levels between 08:00 and 18:00 hours (as shown in the noise level data reported in the Appendix of the acoustic report).
- 10.5 However, I am concerned regarding with the following matters due to the close proximity of residential dwellings:
- The hours of operation proposed, particularly with regards to the loudest equipment/activities used in the processes being carried out.
 - I am also concerned with regards to the uncertainty inherent in the BS4142 methodology as applied to a variable operation of this nature (reported in the assessment)
 - The granting of an unrestricted B2 and/or B8 use in such close proximity to residential properties which would permit potentially noisier business to occupy the premises in the future without needing further planning permissions, which could in turn cause significant loss of amenity and potentially cause statutory nuisance.
- 10.6 I therefore have no objection in principle to permission being granted to allow the current occupier of the premises to continue operating but would recommend that permission be granted on a time limited trial basis to allow verification monitoring to occur. Should a higher impact be identified or the impact of the noisier operations be higher than expected consideration can be given to further mitigation options such as relocating those operations within the premises as recommended in the report or looking at creating a room within the old bus depot building where the metal grinding and cutting operations can be carried out with additional sound reduction (if it is practical to do so).
- 10.7 Additionally the permission should be tied to the current operation and not permit unrestricted B2 or B8 use to occur. I have no objection to the B1 element of the application."

- 10.8 Following these comments the applicant has made efforts to reduce noise on the site. Some of the equipment has been changed on the site for more modern equipment that produces less noise. Details of these can be found in the Amobox Company Manual. For example, the metal grinder that was previously used to cut the holes in the side of the container has been replaced by a plasma cutter that is very quiet. The hoover which is used to during this cutting process to collect metal particles has also been replaced with one that is much quieter. One of the noisiest processes is the cutting of metal for fitting the container out and a guillotine has been purchased so that just one quick cut that produces a thud replaces a constant whine from the original cutter. A thick rubber mat has been put in place under the guillotine to catch the cut pieces of metal so that vibration and noise is absorbed by the rubber rather than the metal hitting the floor. A sound booth has been constructed around another piece of cutting equipment with sound insulation on the inside, this helps with containing noise within the booth and not spilling out into the workshop and beyond.
- 10.9 This means that the earlier mentioned "time limited trial basis" condition is no longer required.
- 10.10 During a site visit Planning Officers and a member of the Environmental Protection Team were given a demonstration of the cutting. Sound measurements were taken by both the Environmental Protection Officer and also the Applicant's Sound Engineer. The results of the measurements were compared at the time and the readings were consistent with each other.
- 10.11 Following this site visit a further Acoustic Survey was carried out by the Applicant Sound Engineer for a week with the sound equipment running within the workshop constantly. The Environmental Protection Officer has reviewed the results of this survey and has concluded, "I have no objection to any B1 use but consider that unrestricted B2 or B8 use should not be permitted."
- 10.12 Following the advice given by the Environmental Protection Officer (full comments are in the Consultee section of this report), it is considered that the level of noise produced from the site is acceptable in a residential area. Therefore, the original description of the proposal which included B1, B2 and B8 use on the land has been changed to B1 use. B1 use is a general business use class and is considered to be acceptable in residential areas and includes light industrial uses. Although there is some cutting of metal on the site, this is very limited and tends to be short bursts of sound rather than prolonged noise of grinding and sawing because of the new equipment that has been purchased by the Applicant to try and address concerns of the neighbours.
- 10.13 The formal complaint that was raised on noise grounds has been closed by the Environmental Protection Team as there was no noise nuisance evidenced from the noise readings that have been taken from the complainant's dwelling.
- 10.14 Some objections have also raised the issue of fumes. The Environmental Protection Officer has investigated this aspect of the proposal. He has advised that dangerous substances are covered by other regulations under the control of The Health and Safety Executive. However, during his visits to site he has not experienced any issue of fumes.
- 11.0 Planning Obligations / CIL (delete if not applicable)**
- 11.1 This is not applicable to this case.

PART FOUR – CONCLUSION

12.0 Planning Balance and Conclusion

- 12.1 This application seeks to change the use of a former bus depot and workshop to a B1 use. There are a total of 15 employees on the site. This is considerably less than its former use as a bus depot. Traffic movements have decreased with the current use.
- 12.2 The proposed use replaces another business on the site. Bures St Mary has little opportunity for local employment and therefore a business use on the site is welcomed in the heart of this village.
- 12.3 It is acknowledged that the use of the site as a bus depot is historic and was in use prior to planning regulations. However, another bus company could come in and use the site without any restrictions (albeit that this may appear unlikely). This change of use application gives the Local Planning Authority the opportunity to impose strict working hours on the premises in order to protect the residential amenity of neighbouring properties.
- 12.4 The Applicant has demonstrated sensitivity to the objections raised by purchasing new equipment that has significantly reduced noise spill from the site at his own cost and without being asked by the Local Authority. This has resulted in noise levels that are acceptable in residential areas.
- 12.5 The use provides fifteen jobs and, in the balance of considerations, it is held that the scheme is acceptable and should be approved.

RECOMMENDATION

That the application is GRANTED planning permission/listing building consent/other and includes the following conditions:-

- Approved Plans and Documents
- Personal Permission to the Applicant
- Removal of PD rights to permitted changes of use
- Work procedures to be carried out in accordance with the Amobox Company Manual
- The use hereby permitted shall only be open during the following times:
Monday to Friday: 07:30 to 19:30
Saturdays: 08:00 to 13:00
Sundays/Public Holidays: None
- Noisy operations (such as those involving the use of powered equipment such as Aluminium saw, Steel saw, Grinders, Rattle gun, compressors or equipment powered or otherwise likely to emit similar noise levels) shall only be carried out between the following hours:

Monday to Friday: 08:00 to 18:00
Saturdays: 08:00 to 13:00
Sundays/Public Holidays: None