

Planning Application OL/TH/21/1976 – All Saints Industrial Estate All Saints Road Margate

Meeting	Planning Committee – 19th April 2023
Report Author:	Duncan Fitt, Planning Officer
Planning Reference:	OL/TH/21/1976
Site Address:	All Saints Industrial Estate All Saints Road Margate
Applicant:	ROE Group SASS Pension
Status:	For Decision
Classification:	Unrestricted
Previously Considered by:	Planning Committee 14 December 2023, 15 March 2023
Ward:	Salmestone

Executive Summary:

This report concerns an outline planning application for the erection of 58 light industrial units (Use Class E(g)) and associated parking including access, appearance, layout and scale.

The application was reported to the Planning Committee on the 14th December 2022 and the 15th March 2023. At this latest meeting, a motion to approve the application subject to safeguarding conditions was voted down and, following an adjournment, a motion was passed to defer the application back to officers and bring back with potential reasons for refusal next month, and to go back to the applicant following the debate to seek a reduction in the number of units.

An additional amended plan has been provided reducing the number of light industrial units to 56 and providing two additional parking spaces.

The application is reported back to the Planning Committee for determination.

Recommendation:

Members approved the application for planning permission under reference OL/TH/21/1976 subject to the safeguarding conditions at Annex 1, with an update to condition 5 to include the amended plans reducing the number units to 56:

The proposed development shall be carried out in accordance (for access, appearance, layout and scale) with the submitted application as amended by the revised plans numbered 04, 05, 06, 07, 08, 09, 10, 11, 12, 13 and 15 received 23 December 2021, 20 received 16 August 2022, 18 Rev B and 19 Rev B received 20 October 2022 and 22 and J7/01043 received 16 February 2023. 01 Rev F and 17 Rev C received 28 March 2023 and 02 Rev A and 03 Rev A received 30 March 2023

GROUND; To secure the proper development of the area.

Corporate Implications

Financial and Value for Money

The Planning Committee is not bound to follow the advice of Officers. However, should Members decide not to accept the advice of Officers it should be mindful of the potential cost implications in doing so.

The advice from Central Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

The advice outlined is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.

Legal

However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision.

The reasons for any decision must be formally recorded in the minutes and a copy placed on file.

If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.

Corporate

The delivery of new commercial units through the Local Plan and planning applications supports the Council's priorities of partnership working promoting Thanet's unique selling points to encourage local enterprise and inward investment, and promoting inward investment through setting planning strategies and policies that support growth of the economy.

Equalities Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy and maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.

1.0 Background

- 1.1 Members considered the application at the Planning Committee meeting on the 15th March 2023 for an outline application for the erection of 58 commercial units and associated parking including access, appearance, layout and scale (planning reference F/TH/22/0364). The application was recommended for approval subject to safeguarding conditions, following previous consideration at the meeting 14th December 2022. The motion to approve the application fell when put to a vote. Following an adjournment, a motion for officers to bring back the application the following month for potential reasons for refusal and to approach the applicant to seek a reduction in the number of units was carried.
- 1.2 The site is an allocated employment site under Policy E01, which supports uses falling within Use Classes B1 (Light Industrial), B2 (General Industrial) and B8 (storage and distribution) where they would not harm the living conditions of neighbouring occupiers of land or buildings. The proposed development is for units within the E(g) use class, specifically defined as either offices to carry out any operational or administrative functions, research and development of products or processes, or industrial processes, all of which to be carried out in a residential area without detriment to its amenity.

2.0 Amended Plans

- 2.1 Following the Planning Committee meeting on the 15th March the applicant and their agent met with Officers and amended plans were submitted. These amended plans have removed two units from the proposal (Previously number 7 and 8). The parking spaces for these units have been reallocated to general parking and two additional parking spaces have been created in this space. These amended plans follow the previous amendments which added an acoustic fence which is still included in this new proposal.
- 2.2 This amended plan has removed the proposed light industrial units closest to 12 and 13 Railway Terrace resulting in a separation distance of 9m between the closest industrial unit and the boundary with these properties and a total distance of 20m to the front elevation of the closest property on Railway Terrace. This increased distance will reduce any potential noise and disturbance, sense of enclosure or overlooking from the industrial units to these residential dwellings. The removal of these two units has also allowed for the addition of two extra parking spaces on the site.

2.3 The site is allocated for the retention as an employment site under policy E01 of the Thanet Local Plan. This policy supports uses falling within Use Classes B1 (Light Industrial), B2 (General Industrial) and B8 (storage and distribution) where they would not harm the living conditions of neighbouring occupiers of land or buildings. The Use Classes Order has been updated subsequent to the published Local Plan, with B1 uses now subsumed into class E (Commercial, Business and Service). The proposed development is for units within the E(g) use class, specifically defined as either offices to carry out any operational or administrative functions, research and development of products or processes, or industrial processes, all of which to be carried out in a residential area without detriment to its amenity. A previous application for three large units falling within light industrial, storage and distribution and general industrial uses was approved on the site (Application reference F/TH/16/0728) with two units located closer to Railway Terrace than this amended plan.

3.0 Potential reasons for refusal

3.1 The application site forms part of a strategic employment allocation within the local plan and there is no objection to the principle of employment use of the site. The development would result in economic and social benefits that come from the creation of commercial units, including anticipated job creation and general visual improvements from the development of a dormant site. In addition, the development would result in improvements to the existing employment site through enhancements to the vehicular and pedestrian access to the site and the formalisation of existing parking provision.

3.2 As outlined in the “Protocol for the Guidance of Planning Committee Members and Officers” as part of the Council’s constitution, if the Planning Committee is minded to refuse planning permission against officer advice the Planning Committee is required to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of members of the Planning Committee at the point of refusal.

3.3 Members have previously raised concerns about the impact of the new development on the nearest neighbours at Railway Terrace. The previous committee report has outlined the applicant has submitted a noise impact assessment and air quality assessment, which have been appraised by the Council’s Environmental Health team. These concluded that in terms of noise the development could slightly affect the acoustic character of the area, but not such that there is a change in quality of life. With regard to air quality the report concludes that the impacts of the proposed development would be below the relevant air quality objectives, meaning that the level of vehicle emissions when modelled would be within acceptable range to avoid harming air quality. These conclusions have been agreed by the Council’s Environmental Health Team who have raised no objection to the proposal, subject to conditions restricting the hours of operation and for cycle storage and electric vehicle charging to be provided prior to the first occupation of the units. The agent has also added a 2m high acoustic fence around the boundary of the site with the properties on Railway Terrace.

- 3.4 Following the receipt of amended plans, the nearest building from the development is 20m from the closest neighbour at 11 Railway Terrace. Due to this separation distance and the change in level between the side elevation of the closest unit and the front elevations of the properties on Railway Terrace, this amended proposal is not considered to result in any significant overlooking, loss of light, or sense of enclosure to these properties. In the professional opinion of officers it could not be considered a reasonable planning judgement that the development, by virtue of its scale, design or appearance, would result in harm to the living conditions of neighbours following the change to the plans. Therefore this would not be a justifiable reason for refusal.
- 3.5 The amended plans have also increased the amount of visitor parking on the site. Members have previously expressed issues regarding the ability for vehicles to manoeuvre within the new development and the wider site. The previous committee report outlined how tracking plans have been submitted by the applicant to demonstrate that articulated lorries accessing the existing neighbouring premises are able to turn within the triangular section of the site to the north east of units 1 and 4 so that they can enter and leave the site in a forward gear. Given the size of the individual units created, it is not expected that articulated lorries would access any of the new units due to their size, with no vehicular conflict occurring on the site to result in any demonstrable change to the freeflow of traffic on All Saints Avenue. In regard to the access, the expected trips generated by the development have been reviewed by KCC Highways, with no objection raised or points of concern. Given the anticipated distribution of vehicle movements throughout the day and the proposed improvements to this access, this proposal is not considered to significantly increase in pressure upon this access to result in harm to highway safety. In the absence of an objection from KCC as the Highway Authority or any tangible evidence of impact to the highway as a result of the development, it is not considered that there is a justified ground for refusal on highways impact.
- 3.6 In addition, the Council is at risk of having costs awarded against it, if, subsequently on appeal, it is unable to justify each ground of refusal. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. One of the aims of the costs regime, outlined by the National Planning Practice Guidance, is to “encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay”.
- 3.7 The proposed development is located on a site allocated for employment uses and has limited visibility from the public realm. This development would provide space for a large number of businesses to be located in a sustainable location as well as providing improvements to the accessibility of the existing industrial estate. The applicant has demonstrated through the submission of noise and transport assessments and additional amended plans that the proposed development would

not result in any significant noise and disturbance to the neighbouring residential properties or highway safety. Conditions would be applied to ensure that this proposal does not result in any significant harm to human health, biodiversity or flood risk. It is considered that following the submission of the amended plans and given the expert advice that has been provided by consultees that there is no justifiable reason for refusal for the application in the view of officers.

4.0 Options

4.1 Members approve the application following the reduction in number of units proposed subject to the safeguarding conditions in Annex 1 (updated to reflect the amended plans received 26th March 2023).

4.2 Members propose an alternative motion.

5.0 Recommendations

5.1 Officers recommend Members of the Planning Committee to agree option 4.1.

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Annex List

Annex 1: Committee Report OL/TH/21/1976