

PARISH Pinxton

APPLICATION Change of Use from woodland, and the laying of hardstanding to provide additional parking for HGV lorries, trailers, and staff parking; in association with an existing use.

LOCATION Land Rear of Erewash Garage Kirkby Lane Pinxton

APPLICANT Mr Andrew Smith

APPLICATION NO. 19/00070/FUL

CASE OFFICER Miss Kay Gregory

DATE RECEIVED 4th February 2019

COMMIITTEE DECISION REFERRED AS A POTENTIAL DEPARTURE TO THE ADOPTED LOCAL PLAN

SITE

The application site is within the settlement boundary of Pinxton, as defined by Saved Policy GEN8 of the Bolsover District Local Plan; where the principle of development is acceptable.



The boundary of the application site (as submitted) includes an established commercial garage and car repairs business towards the front of the site, as well as land at the rear used in association with an authorised concrete packing operation, approved by reason of 17/00225/FUL.



The application site is bound to the north-west by a woodland which is designated as an Important Open Area (IOA), by definition of Saved Policy GEN10 of the Bolsover District Local Plan.

This woodland is likely to have been planted by previous land owners as a sound and pollution buffer from the adjacent motorway.

A triangular shaped area of land which forms the basis of this application is included within the boundary of the 'Important Open Area'. This area was previously covered by trees, until their removal several months ago.

To the east of the site is the M1 motorway, and to the west are the rear gardens of dwellings, which front onto Town Street.

A surface water drain runs through the woodland and into the application site. This drain, and woodland were previously in the ownership of Highways England, but were sold to the applicant. Therefore it is likely that the maintenance of the land drain has become the applicants' responsibility. The applicant has installed a pipe beneath the area which has been hard surfaced, and it appeared from a site visit on the 8th March 2019 that water flows evenly through the drain. Highways England has been consulted on the application and have no objections to the proposal.

PROPOSAL

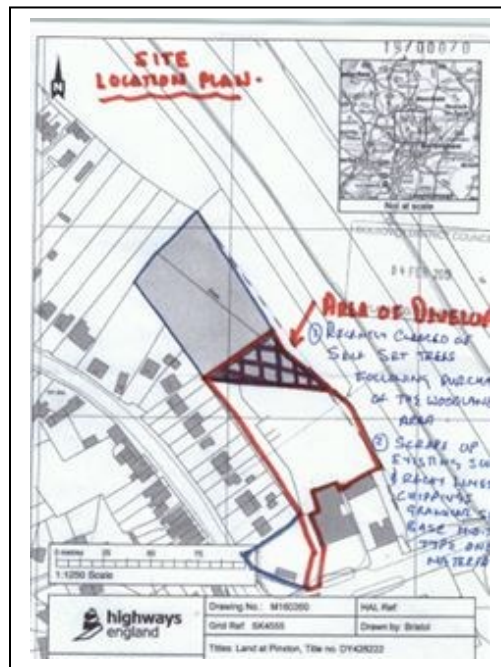
This application has been submitted for a change of use and creation of a hard standing, to a triangular shaped area of land to the rear of the application site.



The application is part retrospective, insofar that the area of land was cleared of trees and vegetation, and laid with limestone chippings and brick aggregate, several months ago.

Whilst the removal of trees and vegetation did not require permission, the laying of a hardstanding is deemed to be operational development, which requires the submission of a formal planning application.

The area of hard surfaced land is to be used for additional parking for HGV lorries, and trailers, and staff car parking; to improve the existing on-site parking provision. The application form states that there will be no intensification of the industrial use of the site. The hard surfacing comprises of scraping the existing surface, and relaying with limestone MOT type 1 granular sub-base material.



AMENDMENTS

There have been no amendments submitted but it should be noted that a Tree Preservation Order (TPO) was served on the area of woodland outside of the application site. The Order has recently been confirmed and endorsed by the Council as a Formal Tree Preservation Order.

HISTORY (if relevant)

- 17/00255/FUL - To use front area of site for car sales. To use rear area for storage and distribution of building materials. To place portacabin on rear area for use of office. To replace chippings on front area. Grant on 15/12/17
- 19/00074/DISCON - Discharge of Condition 3 (Details of the provision within the site curtilage for parking, loading and unloading and manoeuvring of visitors, staff, customers and service and delivery vehicles) of Planning Permission 17/0025. Discharged on 12/4/19
- 18/00046/DISCON - Discharge of Condition 1 (Noise Impact Assessment) of planning permission 17/00255/FUL. Discharged on 21/3/18.

CONSULTATIONS

Highways England

- No objections

DCC Highways

- No objections
- Based on the submitted details it is considered that the formation of a hard surfaced area to the rear of the site will have no detrimental impact on the adjoining public

highway.

Parish Council

- Object
- Pinxton is a very congested village and hasn't got room on the highway for more HGV lorries which may wish to avail themselves of the hardstanding.
- There is only one way into Pinxton from the motorway, down Alfreton Road, and that is already heavily congested and there is planning for another 65 houses on Alfreton Road which will exacerbate the situation
- The area where the hardstanding is going is into an area which was to take the water from the motorway and for trees to be planted to act as a noise barrier from the motorway traffic. Where is the run off for the water which will appear on the hardstanding? There was an existing culvert to help with flooding all along Woodfield Road, will the hardstanding affect the existing drainage?
- There will be an increase in the pollution. Already readings are being taken on the motorway, how much will this add with more HGV's on the hardstanding?
- The trees were planted as a baffle to the motorway noise also take up the water, thousands of gallons a day. Trees have now been chopped down, so where will the water go which the trees don't suck up.
- From the above flooding will occur all along the back of Woodfield Road entering the gardens as it once did, until the remedial measures were taken. This will all be undone now.
- If there are HGV's parking on the hardstanding will the company have to provide interceptors in the drains to stop contaminants like diesel and oil getting into the drains.
- The Council have asked me to also mention that he has started the hardstanding notwithstanding he hasn't got planning permission yet.

PUBLICITY

The application was publicised by way of a site notice and letters were sent to 23 adjacent properties. 13 representations have been received from 6 separate addresses within vicinity of the site. A summary of their comments are provided below:

- Waste/used wall-bricks have been used to back fill the excavated land and the previous surface reinstated. Do used/waste bricks have to be screened for pollutants? The application states "lay hard-standing for HGV lorries and trailers, and staff parking", but in application 19/00074/DISCON it states "there will be no vehicle access to the site for visitors, customers or staff.
- The description is given as "waste land", clearly there were trees which have been felled.
- Requests that the Council serve a TPO on the remaining trees
- The application is retrospective - why has this been allowed before the Council makes a decision? It makes a mockery of the whole process! There are many vehicles already parking at the rear of the premises.
- A large area of woodland has been destroyed - was a habitat for numerous wildlife; lost in favour of a concrete hardstanding for HGV lorries!
- As a result of the felled trees the noise from the motorway has become far more noticeable!

- We have concerns about safety & security. Because there is now the risk of easy entry into our back gardens due to the presence of a very large & compacted mound of earth which is more than 4 foot high & run's alongside the fencing which encloses our back gardens!!
- There is an industrial estate in Pinxton; which would be more appropriate for such a business
- We have noticed an increase in noise and dust from the premises in recent years. We object to any further developments and in particular any felling of trees. The trees provide some degree of protection from the dust and noise from Erewash garage and they are also an essential home to wildlife in the area.
- I object to the hardstanding for lorries and aggregates.
- The garage isn't quiet in out-of-hours work, whether it's 4-5am or 10-11pm or even on Sunday, there's business happening. I understand from their point of view that business is business and keeping customers happy is good for turnover ... but the business is close to neighbourhood life.
- Lorry movements have tripled in the last 8 years; they also come on the kerb to keep traffic moving.
- Noise pollution during the day as well as overnight from the heavy goods vehicles & the machinery/storage facilities associated with the aggregate business.
- It states there will be no increase in the number of vehicles stored on site. If the number is not increasing and there is also unused land at the front of Erewash Garage then why is there a need to expand?
- There are already a number of unused vehicles and fairground rides stored at the site that look like scrap attracting vermin, which are invading our properties and grounds.
- The site has evolved from a small commercial car repair business to, garage with car sales and now a concrete business and industrial estate! It is not needed here.
- Allowing any further expansion or development of this site will have further detrimental effects to residents, children, and wildlife.
- The work have a negative impact on my privacy, the felling of trees has opened up visibility to back gardens that was previously obscured by trees and bushes.
- There has been no consideration for the habitat of the wildlife living in the woodland. For 20 years we have had bats, owls, foxes, to name but a few.
- I have been told they filled in the drain which runs through the middle of the wood; if this remains blocked the gardens of number 32, 34. 34A 36, 38 and 40 will flood after heavy rain it must be kept clear.
- The noise is still bad from the M1 and the B6019 without more from this project.
- Further development will impact on the enjoyment of rear gardens of adjacent properties, who already suffer from noise and pollution from the M1
- Why does he need more land when there is a vacant area to the front, left side of the business.
- I have been informed that the land is outside the settlement framework and is very important open space – this is now an industrial park which is too close to residential properties
- This site infringes on Human Rights as stated in Article 8 of the Human Rights Act. Bolsover dc are creating a negative effect on these rights by giving planning permission to the aforementioned application

POLICY

Bolsover District Local Plan

- GEN 1 - Minimum Requirements for Development
- GEN 2 - Impact of the Development on the Environment
- GEN8 – Development boundaries
- GEN10 – Important Open Areas
- ENV 5 - Nature Conservation Interests Throughout The District
- ENV 8 - Development affecting trees and hedgerows

National Planning Policy Framework (NPPF)

Requires high quality design and a good standard of amenity for all existing and future occupants of land and buildings, makes a presumption in favour of sustainable development.

- Paragraphs 8; 11; 47; 48; 80; 124; 127; 170;

Bolsover District Local Plan Publication

- SS1 - Sustainable Development
- SC1 - Development within the Development Envelope
- SC2 - Sustainable Design and Construction
- SC3 - High Quality Development
- SC9 – Biodiversity and Geodiversity
- SC10 - Trees, Woodland and Hedgerows
- SC11 – Environmental Quality (Amenity)
- ITCR11 – Parking provision

ASSESSMENT

The application has been referred for determination by Planning Committee by reason that the proposed development is a 'potential' Departure from the Adopted Local Plan, by reason that part of the application site is located within an 'Important Open Area' (GEN10); where *"planning permission will only be granted for development provided it does not detract from the objective of maintaining their open character."*

The area of land within the application site which forms the basis of this application was originally part of a larger Woodland; the remainder of which has now been afforded protection through the serving of a Tree Preservation Order.

Policy GEN10 does not provide any statutory protection for the retention of trees / woodland, and as such planning permission was not required for the felling.

The felling, which was carried out prior to the submission of the application had already diminished to some extent, the character of the Important Open Area, and there are no provisions in place to demand that trees are replanted within the site, should the current application be refused.

The proposed use of this area of land for hard surfacing and additional parking, in association with the adjacent, authorised use, will not detract to any significant extent from the open character of the remaining woodland, as it is not visible from the within the street scene, only from the rear windows of properties on Town Street.

The principle of permitting industrial activities to the rear of Erewash Garage has previously been agreed by virtue of planning permission 17/00225/FUL, which was a retrospective application for the *continued use of front area of site for car sales; to use the rear area for storage and distribution of building materials; and to site a portacabin on the rear for use of office.*

Planning application 17/00225/FUL was publicised by a site notice and letters sent to 16 adjacent residents. There were two representations received as a result of the publicity, objecting on the grounds of noise and dust associated with the development and the possible devaluation of their property.

The Parish Council were also consulted; their comments queried the ownership of land on the corner of Town Street and Kirkby Lane, and a request to prevent parking within this area by erecting perimeter bollards.

Environmental Health and the County Highway Authority were also consulted on the application and raised no objections, subject to conditions.

All conditions attached to 17/00225/FUL, relevant to the use of the site for the storage and distribution of building materials, and cement packaging have been formally approved by reason of 18/00046/DISCON (noise), and 19/00074/DISCON (parking).

On balance, it is considered that the development currently proposed is not contrary to the provisions of Saved Policy GEN10, and the principle of development has already been established by reason of 19/00225/FUL.

Visual Amenity

- **Saved Policy GEN2** of the Bolsover District Local Plan identifies that *when considering the environmental impact of every proposal for development regard will be given to the visual appearance of the proposal in terms of the materials of construction, and the visual character of any engineering works. The appearance of the proposal will be assessed in relation to the appearance of the immediate locality and in relation to its setting in the general landscape.*
- **Emerging Policy SC2** of the Bolsover District Local Plan Publication identifies that *the Council will permit proposals for new development, where it promotes the efficient use of land, including developments that protect and enhance the distinctiveness, character, townscape and setting of settlements.*
- **Emerging Policy SS1** of the same document states that *in order to contribute to sustainable development in Bolsover District, development proposals should protect and enhance the character, quality and settings of towns and villages through an appropriate mix of good quality, well-designed developments*
- **Emerging Policy SC3** of the same document identifies that *proposals for development will be permitted provided that they create good quality, attractive, durable and connected places through well designed locally distinctive development that will*

integrate into its setting; will respond positively to their context.

The application site is not prominent from the site access, or visible from within the public domain; only from the rear windows of properties along Town Street.



Objections have been received from residents regarding the loss of trees; affecting their outlook from windows. Within the application site there is an existing commercial business, and two industrial uses, and whilst it is acknowledged that the area of land currently under consideration once formed part of a woodland, which has been subject to the felling of trees, the trees were not protected at the time of their removal.

The trees would have provided some natural buffer against views into the industrial area, but the trees were not evergreen species and so would have been devoid of vegetation for several months of the year.

The applicant was asked to plant additional trees within an area of scrub land between fencing along the western boundary of the application site and the rear of properties along

Town Street; in order to provide additional screening for residents. He considers that there is already sufficient tree cover within this area and as such does not want to carry out any additional landscaping at this time.

The remaining part of the woodland, outside of the application site boundary has now been protected through the serving of a Tree Preservation Order (TPO); the woodland is considered to have public visual amenity value due to the trees being visible between the properties along Town Street.

Therefore, whilst there has been some detriment caused to visual amenity through the loss of vegetation, and the creation of hard surfacing; on balance it is considered that the proposed area of hard standing is to be used only as parking in association with an authorised industrial use; the site is adjacent to a major trunk road (M1); and the removal of the trees did not require the submission of a formal planning application.

It is therefore considered that the proposal does not harm the appearance of the immediate locality in relation to its setting in the general landscape, and as such complies with the policies identified above.

Residential Amenity

- **Saved Policy GEN2** of the Bolsover District Local Plan identifies that *in considering the environmental impact of every proposal for development regard will be given to the extent of the generation of noise, vibration, smells, fumes, smoke, soot, ash, dust or grit; the hours of operation of any activities proposed;*
- **Emerging policy SC3** identifies that *proposals for development will be permitted provided that they ensure a good standard of amenity is maintained for the occupants of existing neighbouring properties as well as the future occupants of new development.*
- **Emerging Policy SC11** identifies that *developments likely to experience a loss of residential amenity must be supported by a relevant assessment. If necessary, appropriate mitigation must be put in place.*

There have been objections received from residents regarding the level of noise and pollution at the site, but their concerns are associated with the existing, authorised use. The industrial business that is currently operating from the rear of the site has already been approved, and it is not anticipated that an additional area of hardstanding for parking, is likely to increase noise levels or activities; as there will be no further intensification in the use of the site.

The Environmental Health team had initial concerns in relation to the potential level of disturbance generated from the site, but during the processing of this application they have visited the site to monitor activities. They consider that on balance, the proposed area of development does not substantially increase what is currently permitted on the site.

The Noise Assessment that was submitted for the previous application is unlikely to alter significantly with the addition of the extra land. This Assessment identified that the *impact of*

the business was acceptable between the hours of 05:00-21:00 Monday to Saturday as the noise from the motorway is the dominant noise source in the area and the rating level of the business activities was at least 5dB below the residual sound level. Should the application be approved, this restriction in the hours of operation will be included as an appropriately worded condition on the decision notice.

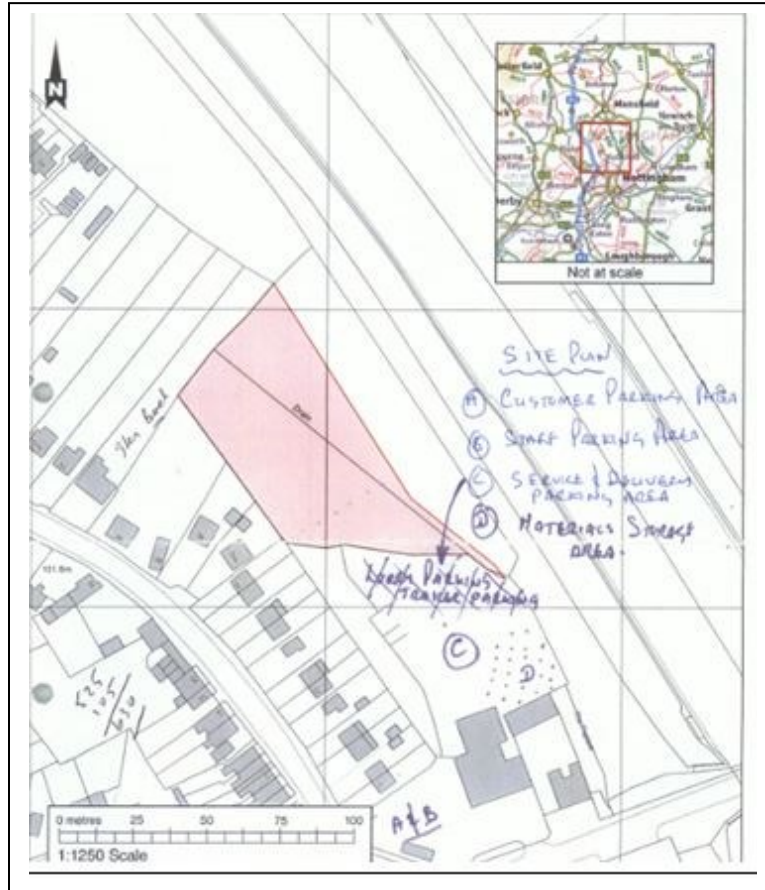
It is therefore considered that provided the applicant adheres to the approved hours of operation, there will be no detriment to the amenity of neighbouring residents; in compliance with the policies identified above.

Highway Issues

- **Saved Policy GEN1** of the Bolsover District Local Plan identifies *that development proposals will be required provide parking and manoeuvring space; to provide safe access arrangements for vehicles entering and leaving the site; and that the local highway network shall be able to accommodate the vehicular, cycle and pedestrian traffic from the site without causing material harm to highway safety, or unacceptable congestion*
- **Saved Policy GEN2** states that *when considering the environmental impact of every proposal for development regard will be given to the amount of road traffic generated by the proposal; the type and frequency of that traffic in relation to the quality and character of the proposed access and local highway system, and the extent and impact of parking facilities for that traffic*
- **Policy ITCR11** of the Emerging Local Plan publication *identifies that parking provision should provide a safe and secure environment and minimise conflict with pedestrians and / or cyclists.*

The proposal increases the amount of available parking and manoeuvring space within the site, and as such it is not expected to cause any detriment to highway safety.

A condition was included on 17/00225/FUL for details to be submitted for parking, loading and unloading and manoeuvring of visitors, staff, customers and service and delivery vehicles). This condition was approved by reason of 19/00074/DISCON.



The Highway Authority had no objections to the parking layout provided above, and has no objections to the current proposal.

It is therefore considered that the proposal will not cause any detriment to highway safety and complies with the policies identified above.

Trees

Saved Policy GEN8 identifies that *planning permission will not be granted for development which fails to make allowance for trees worthy of retention.*

Emerging Policy SC10 of the Bolsover Local Plan Publication identifies that *development proposals should incorporate important woodlands and trees into the overall design and landscape scheme wherever possible, and take opportunities for new planting consistent with wildlife interests.*

Prior to the submission of the application, a number of mature trees within a woodland to the rear of properties along Town Street were removed. At the time of their removal the trees were not protected.

Once the application was submitted, and it became evident that the area of land where the trees were cleared from was to form the application site, an emergency Tree Preservation Order was served on the remaining woodland, which is not within the application site

boundary; but is within the applicants' ownership.

This Order has now been formally confirmed and endorsed by the Council.

There were several trees remaining within the boundary of the application site which were not included within the Order. The applicant marked these trees for identification and a site visit was carried out to confirm that the trees were not included within the Preservation Order. The trees were sporadically spaced out at the edge of the woodland, they were not considered to be worthy of formal protection, and they were subsequently removed.

There will be no further felling of trees within the adjacent woodland unless works are approved through the submission of a formal planning application.

The removal of the trees would have resulted in the loss of some biodiversity, but the formal protection of the remaining woodland will ensure that biodiversity interests are conserved.

It is therefore considered that during the processing of the application the importance of protecting the remaining trees has been properly acknowledged, and consideration has been given for the planting of additional trees to offset against the loss. As such the proposal complies with the policies identified above.

Biodiversity Matters

- **Saved Policy ENV 5** of the Bolsover District Local Plan states that *in granting planning permission the local planning authority will require development to retain, wherever possible, habitats which are locally important for biodiversity including woodland, trees, and protect them during construction work; and make provision, wherever possible, for replacement habitats where the loss of existing wildlife habitats is unavoidable*
- **Emerging Policy SC9** explains that *development proposals should seek to conserve and enhance the biodiversity and geodiversity of the District and to provide net gains where possible.*

The application has resulted in some loss of biodiversity, as a result of the tree felling; although this was carried out beyond the scope of the planning process.

The remaining area of woodland has now been formally protected through a Tree Preservation Order, which will provide some mitigation to offset against the loss of biodiversity.

Planning Balance / Conclusion

The main consideration of this proposal is whether the development fails to comply with the provisions of Saved Policy GEN10 of the Bolsover District, which identifies that development proposals will only be permitted which do not detract from the objective of maintaining the open character of the 'Important Open Space'.

The application site is not visible from within the public domain, but there are views into it from

rear windows of properties along the western boundary of the site.

The open character of the land has already been diminished to some extent by the removal of the trees, and should the application be refused there will be no requirement for trees to be re-planted, and the site could remain clear, but as unmade ground.

It is therefore considered that should the development be granted planning permission, the impact on visual amenity, and the open character of the site will be minimal, due to the isolated location of the application site.

The concerns raised by residents regarding noise and disturbance can be curtailed by a condition restricting the hours of operation to be in accordance with the Noise Impact Assessment, and residents' main concerns do in fact relate to issues which have already been considered through the previous planning application, of which the Council only received two letters of objection.

The proposal will not intensify industrial activities at the site, and as such there will be no additional traffic in excess of that generated by planning permission 17/00225/FUL, which established the principle of an industrial use on the site.

Any loss of biodiversity has been mitigated against through the formal protection of the remaining woodland.

It is therefore considered that the application complies with the Councils Adopted and Emerging Planning Policies, and the objectives of the National Planning Policy Framework 2019, and it is therefore recommended that the application is granted planning permission, subject to conditions.

Other Matters

Listed Building: None Affected.

Crime and Disorder: No issues identified.

Equalities: No issues identified.

Access for Disabled: No issues identified.

Trees (Preservation and Planting): See report

SSSI Impacts: None affected.

Biodiversity: See report

Human Rights: No issues identified.

RECOMMENDATION – Grant with conditions

Conditions

1. The development hereby permitted shall be carried out in accordance with the details and specifications shown on the submitted application form and plans.

2. There shall be no movement of any vehicles, or any noisy activities, to be carried out within the area of land outlined in red on the submitted site location plan, outside of the hours 05:00-21:00 Mondays to Saturdays.

Reasons for Conditions

1. To ensure that the development takes the form as envisaged by the Local Planning Authority.
2. To protect the amenity of residents living within vicinity of the application site; in compliance with Saved Policy GEN2 of the Bolsover District Local Plan and Emerging Policy SC3 of the Bolsover District Publication Local Plan Document.

Informative

1. The applicant is reminded that the area of land to which this application relates shall be used as parking for HGV lorries, trailers, and staff parking only; in association with the use permitted by planning permission 17/00255/FUL, and shall be maintained clear of any obstacles throughout the life of the development.

Statement of Decision Process

This proposal is to provide an extension to the parking area relating to an existing development and will be used only for the parking of vehicles associated with the business. It is considered that the current proposal complies with the policies and guidelines adopted by the Council, and the decision has been taken in accord with the guidelines of the National Planning Policy Framework.
