

PLANNING COMMITTEE – 2 JULY 2019

Application No:	19/00814/FUL	
Proposal:	Variation of condition 2 and removal of condition 7 attached to planning permission 18/00279/FUL	
Location:	Lowdham Cars, Lowdham Road, Gunthorpe, Nottinghamshire, NG14 7ER	
Applicant:	Ms Hibbitt	
Registered:	30.04.2019	Target Date: 25.06.2019
		Extension agreed to: 05.07.2019

This application is being referred to the Planning Committee for determination by the local ward member (Cllr Jackson) due to concerns regarding over intensification of the site and impact on highways safety.

The Site

The application site is located to the east side of Lowdham Road outside the built-up area of Gunthorpe within a ribbon of mixed development washed over by the Green Belt. The entire site also lies within Flood Zone 3 as defined by the Environment Agencies Flood Mapping.

North of the application site, Lowdham Road is characterised by large residential properties but around the site there are a number of commercial uses comprising caravan sales and garage sites, including the Lowdham Cars site itself, as well as residential uses.

The northern half of the site has a car sales unit and forecourt and a dwelling approx. 25 m from the proposed car wash site. The southern section of the site is not hard bound like the car forecourt but has two squares of concrete hardstanding that have been regularized through the application 18/00279/FUL and now comprise the area approved for car wash use.

The application site is set back from the road with hardstanding to the access on to Lowdham Road. Car parking is currently available at the front of the site. Across the highway is the Lowdham Motorhome and Caravan Sales site which has a palisade and chain link fence perimeter to the site with the highway and has a large forecourt displaying motorhomes with a large warehouse unit towards the west.

Relevant Planning History

18/01465/FUL - Variation of conditions 2 and 7 of planning permission 18/00279/FUL to increase the number of car sales from 30 to 50 car sales – Permitted 03.10.2018

18/01777/DISCON - Requesting for confirmation to discharge condition 4 attached to planning permission 18/00279/FUL - Retrospective consent for the installation of engineering operations for site drainage. Consent for the change of use of the land from car sales to car sales and car wash and the erection of fencing – Condition 04 Part Discharged 25.09.2018

18/01229/ADV - 1 x Illuminated flex face Fascia and 1 x Non Illuminated Totem sign – Withdrawn 24.07.2018

18/00279/FUL - Retrospective consent for the installation of engineering operations for site drainage. Consent for the change of use of the land from Car Sales to Car Sales and Car Wash and the erection of fencing – Permitted 04.07.2018

13/01812/FUL – Erection of Single Storey Extension to Existing Garage Workshop (Resubmission of 13/01325/FUL) – Permitted 10.02.2014

07/00630/FUL – Change of use from fuel filling station to car sales – Permitted 05.2007

07/00188/FUL – Demolition of existing petrol filling station and house. Erection of new sales building, car wash and petrol filling station development – Withdrawn 2007

05/01594/FUL – Demolition of existing filling station & house. Erection of new sales building, car wash & petrol filling station (Re-submission) – Permitted 2005

05/00835/FUL - Demolition of existing filling station and house. Erection of new sales building, car wash and petrol filling station – Withdrawn 2005

The Proposal

For the avoidance of doubt this application has been forthcoming as a result of ongoing enforcement investigations on site.

Full (retrospective) planning permission was originally sought and granted for the installation of engineering operations for site drainage along with consent for the change of use of the land from car sales to car sales and car wash and the erection of fencing in July under reference 18/00279/FUL.

Following enforcement action relating to the number of cars being displayed for sale a Section 73 application was approved to vary the condition (no.2) relating to the submitted drawings to the original application along with condition no. 7 which restricted the number of vehicles permitted to be displayed for sale on the site to increase this from 30 to 50.

Similarly following further and ongoing enforcement action this current Section 73 application now seeks to remove the condition restricting the number of vehicles permitted to be displayed for sale and vary the approved site plan to reflect this, whilst still demarcating staff and visitor parking spaces.

Existing Visitor Spaces: 6

Proposed Visitor Spaces: 6

Existing Staff Parking Spaces: 4

Proposed Staff Parking Spaces: 4

Existing Parking Spaces for the House on Site: 3

Proposed Parking Spaces for the House on Site: 3

Allotted Vehicle Sale Spaces: 13 (along the NW frontage of the site)

Forecourt Vehicle Parking – SE side of the plot – no proposed demarcations or formal parking layout. This space will accommodate c.80-90 cars (although this is not to be restricted as part of this application) and will be managed and operated by the applicant as part of day to day operations.

There remains a demarcation between the car sales forecourt and the permitted car wash area to the SE and a 6.2 m gap in the southern corner of the car forecourt to permit car circulation between the two sites if required. The car wash area as permitted required 2 areas of 10m x 10m, but the remaining site width is in excess of 11.9m which facilitates these two areas.



Approved 18/01465/FUL



Proposed 19/00814/FUL

Departure/Public Advertisement Procedure

Occupiers of 7 properties have been individually notified by letter with the consultation period expiring on 03.06.2019.

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 4B: Green Belt Development

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Allocations & Development Management DPD

Policy DM5 – Design

Policy DM10 - Pollution and Hazardous Materials

Other Material Planning Considerations

- National Planning Policy Framework 2019

- Planning Practice Guidance 2014

Consultations

Gunthorpe Parish Council – No comments received.

NCC Highways Authority – “This application is for the variation of conditions 2 and 7 of 18/00279/FUL, regularising the site layout, as shown on site plan 372(08)S10 Rev. E, instead of 372(08)S10 Rev. D as previously approved.

This is not expected to have a significant impact on the public highway; therefore, there are no highway objections.”

NSDC Environmental Health – “As this application does not relate to the operation of the car wash, I have no comments to make”

NSDC Contaminated Land - “No observations in relation to conditions 2 and 7 of 18/00279/FUL”

NCC LLFA – “Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

As a general guide the following points are recommended for all developments:

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.”

Trent Valley Internal Drainage Board – “The site is within the TVIDB district. The Board maintained Hall Drain, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the LLFRA and the LPA.”

Comments of the Business Manager

Principle of Development

Following enforcement action relating to the number of cars being displayed for sale exceeding the restrictive condition, this Section 73 application seeks to vary the condition (no.2) relating to the submitted drawings to the original application and remove condition no. 7 which restricted the number of vehicles permitted to be displayed for sale on the site to 50 (following the approval of the Section 73 application ref. 18/01465/FUL). The applicant seeks to remove this restrictive condition so that they can park an unrestricted number of cars on the forecourt area to the SE

with no proposed demarcations or formal parking layout. It is anticipated that the space would be able to accommodate c.80-90 cars (although this is not to be restricted as part of this application) and will be managed and operated by the applicant as part of day to day operations. The number of customer, staff and residents parking is not proposed to be altered as part of this application.

An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission, and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues including impact on visual amenity, character of the area, residential amenity, and highway safety issues.

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The Core Strategy outlines the spatial strategy for the District aiming to direct new development to the more sustainable areas of the District such as the Newark Urban Area or principal villages such as Lowdham. The application site lies within Gunthorpe parish, to the south of Lowdham in a strip of commercial units on Lowdham Road. Gunthorpe itself is considered to be an 'Other Village' within the Core Strategy albeit the site lies outside of any settlement within the Nottinghamshire-Derby Green Belt. Spatial Policy 1 clearly states that, where development falls within the designated Green Belt, proposals will be assessed against Spatial Policy 4B. This policy in turn directs assessment to the relevant paragraphs of the NPPF.

Impact on Green Belt

Section 13 of the NPPF (2019) discusses the national policy stance for controlling development on green belt land.

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 regards the construction of new buildings within the Green Belt as inappropriate, and by definition harmful to the Green Belt, with the exception of six listed circumstances, one of which is:

“g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

The application to vary condition 02 and remove condition 07 of the 18/00279/FUL permission seeks to remove the restriction on the number of vehicles permitted to be displayed for sale on the site and to vary the approved site plan to set out the parking spaces for the vehicles for sale along the front NW boundary, customers, staff members and for the dwelling on site but leave the

SE forecourt area free of demarcation. The amendments sought are all within the confines of the existing site and include no construction works or additional hardstanding being laid. The proposal could therefore be considered as the partial redevelopment of a previously developed site (which does not exclude sites in continuing use). I therefore deem that the principle of development in the Green Belt could be considered acceptable subject to it not having a greater impact on the openness of the Green Belt and the purpose of including land within it.

Paragraph 133 of the Framework indicates that openness is an essential characteristic of the Green Belt. It can be considered as meaning an absence of built development. I accept that the site as existing does not have an open character due to the existing buildings and the storage of cars. The proposal constitutes an expansion of the existing business through the increase in number of cars permitted to be displayed on the site for sale within the confines of the existing site and on existing hardstanding. The development would be set within a strip of commercial units along Lowdham Road (that notably also include the storage of vehicles). The interpretation of the increase in vehicles is therefore considered to be marginal and in turn would not have a greater impact on the openness of the Green Belt.

The openness of the Green Belt has a spatial aspect as well as a visual aspect and therefore assessing openness should not to be limited to measuring the volume of the existing and proposed structures on the site - many factors are relevant to assessing openness such as how built-up the Green Belt is currently and how built-up it would be if the proposed development went ahead (Court of Appeal judgement *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466 and *Samuel Smith Old Brewery (Tadcaster) & Oxton Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489). The impact of the removal of condition 07 to allow an unrestricted number of vehicles to be displayed for sale in the SW will be an increased density of vehicles on the site; however these will be contained within an existing site that is already built up to a degree within this Green Belt location – I must consider whether the effect of an additional 30/40 vehicles will preserve the openness of the Green Belt and I consider that this additional number of vehicles will result in a similar visual effect to the situation as approved given how built-up the site already is, the natural restriction in vehicle capacity by virtue of the site area and the containment of the development within the clearly fenced boundaries of the site.

Therefore having considered the purposes of the Green Belt listed at para. 134 of the NPPF I see no credible reason to conclude that the proposal would not conform with the objectives of the NPPF. The proposal is therefore not considered to constitute inappropriate development within the Green Belt.

Impact on Flooding

I acknowledge that the site lies within Flood Zone 3 however the application does not seek to install any additional hardstanding onto the site that is not already in existence – instead the application seeks to increase the number of cars permitted to be displayed for sale on site and to maintain the regularised parking arrangements. Given there is no increase in built form on the site or installation of additional hard surfacing that would impact the capacity for the flood plain I conclude that the proposal would not cause an unacceptable flood risk from fluvial or pluvial flooding in accordance with Policy DM5, Core Policies 9 and 10 and the aims of the NPPF.

Impact on Amenity

The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

I am satisfied that the proposed amendments would not result in any unacceptable over-bearing impact or over-shadowing of the neighbouring properties given it does not seek to construct any additional built form. The additional cars permitted to be displayed for sale will not cause an unacceptable impact on neighbouring occupiers by virtue of separation distance and the stationary nature of vehicles being displayed for sale. There would be no material detrimental impact on the amenities of proposed occupiers of the site as a result of this alteration to the approved site layout plan and is in accordance with Policy DM5 of the DPD and the NPPF.

Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access appropriate parking provision. The site plan has been revised so that circulation between the car forecourt and the approved car wash area to ensure that there are not increased movements onto the highway from the access point.

The Highways Authority has commented on the application advising that the proposed removal of the restrictive vehicle condition and concurrent variation of the approved site plan is not expected to have a significant impact on the public highway; therefore, there are no highway objections. The removal of this condition will not impact the movement of vehicles onto the public highway as they will be stationary on site when displayed for sale. The circulation space between the car forecourt and car wash area has been maintained on the proposed site plan, which was initially requested from NCC Highways to lessen the movements entering and exiting onto the highways from this site, however NCC Highways never requested to be conditioned as part of any previous application as both access points were existing prior to the submission of any application on the site and as such there is limited control over the use of these access points.

In any case, NCC Highways Authority have raised no objection to the proposed increase in number of vehicles to be displayed for sale on site and have concluded that the number of spaces and the layout proposed raises no highways safety concerns. In conclusion it is considered that the proposal will not result in a detrimental impact upon the highway in accordance with SP7.

Relevance of other conditions attached to the original permission (18/00279/FUL)

The contaminated land phased condition (no. 4) has been part discharged through the discharge of conditions application reference 18/01777/DISCON – Part D of the condition remains outstanding and as such the condition has been varied to reflect this, but it is considered that all other conditions still remain necessary.

Conclusion

As concluded above, the amendments sought are not considered to constitute inappropriate development within the Green Belt in accordance with the objectives set out by the NPPF. The

development is not considered to unduly impact the openness of the Green Belt or wider area, given its existing context, or impact the amenity of any neighbouring residents. In addition the development is also not considered to have a detrimental impact on highway safety. Accordingly I recommend that planning permission is granted.

RECOMMENDATION

That full planning permission is approved subject to the conditions and reasons shown below.

Conditions

01

The development hereby permitted comprising the erection of the fence and the change of use shall not begin later than three years from 4th July 2021.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

- Site Location and Block Plans – 372(02) S10
- Revised Proposed Site Plan - 372(08)S10 REVISION E (29.04.2019)
- Surface Water Layout Plan
- Drainage Layout

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The fence hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

Unless otherwise agreed by the Local Planning Authority, the car wash use must not commence until Part D of this condition have been complied with (noting that Parts A-C have been discharged under 18/01777/DISCON):

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must

be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

05

No infiltration of surface water drainage into the ground where contamination is present (as identified within condition 04) is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants in line with paragraph 109 of the NPPF.

06

The vehicle sales and car wash premises shall only be open to the public between the hours of 08.30 am and 6pm.

Reason: In the interest of residential amenity.

07

~~There shall be no more than 50 vehicles for sale displayed on the premises at any time unless otherwise approved in writing by the Local Planning Authority.~~

~~Reason: To ensure that the site remains in a tidy condition and there is adequate customer and staff parking areas and to protect the openness of the Green Belt.~~

08 07

There shall be no outside storage or paraphernalia associated with the car wash facility erected on the site unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the openness of the Green Belt.

Notes to Applicant

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email: plantprotection@cadentgas.com Tel: 0800 688 588

03

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk

Matt Lamb
Director Growth & Regeneration

Committee Plan - 19/00814/FUL

