

## AGENDA ITEM NO: 8/2(c)

<b>Parish:</b>	<b>Downham Market</b>	
<b>Proposal:</b>	<b>Continued Use of store as car body repair shop</b>	
<b>Location:</b>	<b>91 Railway Road Downham Market Norfolk PE38 9EP</b>	
<b>Applicant:</b>	<b>Mr Jon Attenborough</b>	
<b>Case No:</b>	<b>16/01826/CU (Change of Use Application)</b>	
<b>Case Officer:</b>	<b>Mr Bryan Meredith</b>	<b>Date for Determination: 12 December 2016 Extension of Time Expiry Date: 7 April 2017</b>

**Reason for Referral to Planning Committee** –The views of Downham Market Parish Council is contrary to the Officer recommendation

### **Case Summary**

The application site is the store which amounts to approximately 89 square metres and is located to the south of Railway Road, to the west of Maltings Lane and to the east of the railway line. The building that comprises the site lies on the very edge of the Downham Market Conservation Area, but outside its boundary.

This application seeks to continue the use of the former store as a car body shop business at the address of 91 Railway Road.

Planning permission was recently granted for the change of use of the land north of the application site at 91 Railway Road from car sales and light van hire to mixed use as a commercial car park and car valeting service.

### **Key Issues**

Principle of Development  
Residential Amenity  
Highways  
Other Considerations

### **Recommendation**

**APPROVE**

### **THE APPLICATION**

The application seeks planning permission for the continued use of a car and body repair shop on the application site. The site area measures approximately 89 square metres and comprises a store which includes paint spraying and body shop facilities in the store.

The northern part of the site at 91 Railway Road has most recently been granted planning permission for a commercial car park and car valeting service. The building is located just outside the Downham Market Conservation Area.

## **SUPPORTING CASE**

The application is accompanied by a Noise and Odour Management Plan for this car and body repair shop. This plan is summarised and set out below:

- The car and body repair shop is to be used for repairing and re-spraying vehicles.
- The following information sets out the controls that will be used to ensure that noise and odour does not have an unreasonable effect on neighbouring properties.
- This plan is an official document affiliated with the following condition attached to planning reference 16/01826. Deviations from the controls set out within this plan may be considered as a breach of the condition;
- All activities on the site will be conducted in accordance with the document 'Noise and odour management plan 16/01826/noise and odour' at all times'.
- The business will only be operated from 08.30 to 16.00 on weekdays. The business will not be used at any time on Saturdays, Sundays or bank and Public holidays.
- Noise
- Fixed plant and machinery – Compressor
- The compressor will not be used for periods longer than 30 minutes.
- Following each use the compressor will be switched off for a minimum time period of 15 minutes.
- Driving cars in and out of the garage and booth
- Unnecessary starting of car engines will be avoided and car movements on site will be kept to the minimum.
- Hand tools
- No power tools will be used on site only hand tools to remove body work and attach new parts.
- Panel beating will not take place on site.
- Sprayer
- The sprayer does not emit any significant noise.
- Odour

The paints used at the site will be Octobase Eco Plus W00 – W99 or equivalent that are water based and of low solvent content.

The booth that spraying takes place in will always be completely enclosed and a two stage filtration method will be used.

The booth will be checked weekly to ensure that the enclosure is appropriately sealed.

The filtration material will be Star Chem FR-1, FR-2 or equivalent.

The filtration materials will be International Filter Classification EUROVENT 4/5 class: EU2 or equivalent at all times.

Two sets of filtration material will be used at each stage of filtration.

The filters will be changed weekly.

After filtration the extracted air will enter a flue that disperses above ridge height to provide maximum dispersion in accordance with approved plan 16-L15-PL101A for planning application reference 16/01826.

## **PLANNING HISTORY**

16/00991/F: Application Permitted: 25/10/16 - Change of Use of the land from car sales and light van hire to mixed use as a commercial car park and a car valeting service - The Quality 4x4 Sales, 91 Railway Road, Downham Market, Norfolk, PE38 9EP;

12/00509/CU: Non-determined Invalid now returned: 09/04/15 - Change of Use to a mixed use incorporating car sales, light van hire, car park, car wash, shed assembly and display and general store - 91 Railway Road, Downham Market, Norfolk, PE38 9EP;

## **RESPONSE TO CONSULTATION**

**Parish Council:** Downham Market Town Council **OBJECT** and recommended refusal amid concerns of insufficient clarity contained within the application in respect of waste disposal/recycling arrangements/storage of hazardous products on site/Environmental Permits, none of which appeared to have been satisfactorily addressed.

**Highways Authority: NO OBJECTION-** This application provides a plan that would relocate the point of access for the site and would close the site off from its current substandard access position.

Given that the new access would provide an improvement to highway conditions as visibility would be increased, the Officer would not be against the approval of the application subject to conditions, which are submitted, be attached to a decision notice.

**CSNN: NO OBJECTION-** In relation to this planning application the Officer has the following comments and recommendations;

There have recently been complaints about this site in terms of odour which have not been substantiated but are still ongoing.

The Officer has been to the site and made observations whilst spraying takes place and after. A noise and odour management plan is also now in place which the Officer attached.

Information from the operator has been provided about the filtration and the application also now includes the use of a flue that has an outlet above ridge height.

The operator does not meet the criteria to be required to apply for a permit from the Environment Agency.

The CSNN Officer is now satisfied that the use of the premises as a car body repair shop will not cause dis-amenity as long as the conditions which deal with issues of extraction, hours of use and a noise and odour management plan are applied to the permission.

## Scientific Officer – Environmental Quality:

*Contaminated land:* From a review of the site, its existing use and the proposed use, no increase in risk to human health from contaminated land has been identified. As such the Officer has No Comments to make regarding contaminated land.

*Groundwater:* We have assessed this application with regard to potential impacts on human health as required by National Planning Policy Framework paragraph 120. Groundwater protection and potential pollution of controlled waters is the responsibility of the Environment Agency and their advice should be sought on this.

*Air Quality:* We have visited the site as paint spraying may fall under the environmental permitting regime and we are concerned that potential air pollution from the site should be controlled. Based on current information, the operation is unlikely to exceed the threshold at which environmental permitting will apply and so it will fall to the planning system to manage any potential effects on local air quality and general amenity. The Officer understands that their colleagues in the CSNN team will provide comments and recommend conditions regarding noise and odour. Should the applicant significantly increase the amount of spraying carried out then the operation would then require an environmental permit. The Officer recommends an informative be included should permission be granted.

**Conservation Officer: NO OBJECTION** to the proposed change of use - but we need to ensure that any new signage is not excessive in terms of amount and/or size because it could adversely affect the setting of the grade II listed Station & Signal Box as well as the entrance to the conservation area. The Officer requests adding an informative pointing out the need for advertisement consent.

## REPRESENTATIONS

**TWO** individuals have both made numerous representations with regard to this application throughout the timeframe of the application. A summary of the concerns listed by both individuals is set out below.

- The planning authorities have a duty of care to the public.
- The application site is in a residential, designated conservation area - Downham Market Old Town.
- Spray booths can cause serious health concerns.
- Even with water based paints, spray booths produce Isocyanates (see HSE website) that can lead to breathing problems.
- Local residents have been subject to sickly smells which suggests Isocyanates leading to distress and having to get indoors as soon as possible.
- Suggest that any planning permission be delayed until the operator can confirm 100 percent that this cannot happen again. Even if it means re-building the Nissan hut and getting rid of the vent that faces the residential area.
- Concerned with how the Council will monitor any breaches of safety regulations and that the spray booth conforms to all HSE standards.
- Request confirmation that a stop notice would be issued with immediate effect should there be any risk to public health.
- Request confirmation on how the chemicals needed to operate such a booth will be stored safely as spray booths can represent a fire risk/hazard to the environment.
- How the waste material will be disposed, including the risk to surface water contamination.

- This is really not a suitable building nor a suitable area for a spray painting / panel beating business (which is still functioning despite being unauthorised).
- This use causes considerable disamenity to the neighbouring residential area and the sickly fumes and loud panel beating noise from the rusty/leaking Nissan hut is at an unacceptable level.
- Individuals have stated they have asthma and believe that the fumes have made this condition worse over the past couple of months
- This is an 'old town' conservation area with several close by homes and the fumes - despite an apparent homemade filter that has been put in place, are spreading over the local area and this has to be a serious public health & safety concern.
- Lingering/potentially toxic fumes and smells don't just disappear when the spraying stops. Not all the residents in the neighbouring homes work full time.
- The potentially harmful fumes and panel beating would be more at home/appropriate on an industrial estate, a location which doesn't cause clear disamenity to local residents and genuine public health concerns.
- Information provided by the HSE states that water based paints make no difference. Spraying will involve using chemicals that are harmful to health regardless of the type of paint and it is obvious the filter system is not working at the moment.
- Querying why is there an apparent proposal that the business will now be functioning on a Saturday until lunchtime? The understanding that in previous documentation that the suggestion was it would be just Monday-Fridays.
- In addition to the comments above about opening on Saturdays, the individual quoted the planning agent's correspondence dated 23 Dec which confirmed that the opening hours will be limited to 8am - 4pm Monday - Friday (therefore all neighbours will be at work), the business will be closed on weekends and bank / public holidays. Question why Saturdays are now included?
- Acknowledge that the flour mill and railway have functioned there for a long time and are both great assets to the area. But other than that, there is one bakery and previously a caravan selling business.
- The title is a vague title that leaves the permission open to interpretation regarding the types of activities that would be permitted there.

## **NATIONAL GUIDANCE**

**National Planning Policy Framework** – sets out the Government's planning policies for England and how these are expected to be applied.

**National Planning Practice Guidance** - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS10** - The Economy

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

### **OTHER GUIDANCE**

Downham Market by Design

### **PLANNING CONSIDERATIONS**

The main considerations in the determination of the application are:

- Principle of Development
- Residential Amenity
- Highways
- Other Considerations
- Conclusion

#### **Principle of Development**

Downham Market was designated a 'Main Town' in the settlement hierarchy of the Core Strategy (2011). Significant development will take place in these locations with a focus on maintaining and enhancing the role of a main town in delivering essential convenience services and opportunities for employment. Policy CS04 Downham Market states the role of Downham Market is to continue as a main town providing and supporting employment and essential services for the southern part of the borough. Focus in the town centre will be on maintaining and enhancing a strong local service offer and accommodating a balanced diversity of uses.

The proposed unit is an existing building, which lies just outside the Downham Market Conservation Area. The Conservation Officer has been consulted and has no objection to the proposal to continue the use of repairing and re-spraying vehicles within the car body repair shop.

The proposal complies with both local and national policy subject to the consideration of other material considerations.

#### **Residential Amenity**

Although there are existing residential properties to the north, east and south of the application site and adjacent to Maltings Lane, various commercial uses have taken place from this site for many years. That said previously some of those uses have been subject to enforcement action and the wider site has relatively recently been granted consent for a commercial car park and car valeting use.

In terms of this proposed use, the repairing and re-spraying of vehicles use could be acceptable providing the amenity of nearby residential properties is not adversely affected.

The proposed plan, drawing number 16-L15-PL101A, includes the use of a flue that has an outlet above ridge height. The flue will not be capped in line with the details set out in the Noise and Odour Management Plan accompanying the application.

The application is accompanied by a Noise and Odour Management Plan which sets out the controls that will be used to ensure that noise and odour does not have an unreasonable effect on neighbouring properties.

In relation noise on site, of particular note are that the compressor will not be used for periods longer than 30 minutes. Following each use the compressor will be switched off for a minimum time period of 15 minutes.

Unnecessary starting of engines will be avoided and car movements on site will be kept to a minimum. No power tools will be used on site only hand tools to remove body work and attach new parts. Panel beating will not take place on site. The sprayer does not emit any significant noise and will have minimal impact.

In relation to odour emitting from the site, the paints used at the site will be Octobase Eco Plus W00 – W99 or equivalent that are water based and of low solvent content. The booth that spraying takes place in will always be completely enclosed and a two stage filtration method will be used. The booth will be checked weekly to ensure that the enclosure is appropriately sealed. The filtration material will be Star Chem FR-1, FR-2 or equivalent.

The filtration materials will be International Filter Classification EUROVENT 4/5 class: EU2 or equivalent at all times. Two sets of filtration material will be used at each stage of filtration. The filters will be changed weekly. After filtration the extracted air will enter a flue that disperses above ridge height to provide maximum dispersion in accordance with approved plan 16-L15-PL101A.

The business will only be operated from 08.30 to 16.00 on weekdays. The business will not be used at any time on Saturdays, Sundays or bank and Public holidays.

Given the distances between the unit and neighbouring properties, 35 metres to the rear of the properties facing onto Railway Road adjacent to Maltings Lane and 10 metres from the two dwellings located to the south of the repair shop; with the implementation of the noise and odour management plan it is not considered there will be a significantly detrimental impact upon the amenity of neighbouring residents.

The CSNN and Environmental Quality Officers have no objection to this proposal subject to compliance with conditions.

## **Highways**

The scheme proposes to access onto Railway Road using an access point to the north of the site. The Highways Officer has no objection to this proposal subject to compliance with the conditions which the officer provided.

## **Other Considerations**

Downham Market Town Council have recommended the application be refused amid concerns of insufficient clarity contained within the application in respect of waste disposal/recycling arrangements/storage of hazardous products on site/Environmental Permits, none of which appeared to have been satisfactorily addressed.

There were two individuals who submitted third party representations throughout the application. The comments which they made are summarised above and have been fully taken into consideration when making a recommendation.

The Noise and Odour Management Plan submitted by the applicant provides amendments and restrictions to the initially submitted plans which address the concerns raised by the Town Council and third party representations in relation to the proposals impact on residential amenity and hours of use.

The Scientific Officer from the Environmental Quality section has visited the site and stated that the size of operation with this proposal is unlikely to exceed the threshold at which environmental permitting will apply. Should the applicant significantly increase the amount of spraying then the operation would then require an environmental permit. In terms of groundwater protection the site is not in a groundwater protection area and the EA would not normally be consulted in these circumstances.

## **CONCLUSION**

The site lies within the development boundary of Downham Market but the building is just outside the Downham Market Conservation Area. The proposal includes a body shop and paint spraying facility at 91 Railway Road.

Subject to planning conditions the proposed development is considered to be acceptable with regards to highway safety, residential amenity, noise and odour.

The proposal accords with general principles of the NPPF, Core Strategy and Site Allocations and Development Management Policies Plan.

It is recommended the application be approved subject to the following conditions.

## **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition The development hereby permitted shall be carried out in accordance with the following approved plans titled:
  - Location Plan, drawing number PL100, scale 1:1250 and
  - Proposed Plans, Elevations and Site Plans, drawing number PL101 A.
- 1 Reason For the avoidance of doubt and in the interests of proper planning.
- 2 Condition Within one month of this permission the vehicular access shall be provided and thereafter retained at the position shown on the approved plan (drawing number 16-L15-PL101) in accordance with the highway specification (Dwg. No. TRAD 1) attached. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 2 Reason To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.



- 3 Condition Vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access shown on drawing No 16-L15-PL101A only. Any other access or egresses shall be permanently closed in accordance with a detailed scheme to be agreed with the Local Planning Authority in consultation with the Highway Authority, concurrently with the bringing into use of the new access.
- 3 Reason In the interests of highway safety.
- 4 Condition Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 4 Reason In the interests of highway safety.
- 5 Condition Within one month of this permission a 2.4 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage. The parallel visibility splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 5 Reason In the interests of highway safety.
- 6 Condition Within one month of this permission the proposed access / on-site car parking / turning / area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 6 Reason To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.
- 7 Condition An extraction flue shall be installed in accordance with approved plan 16-L15-PL101A, within one month of the grant of this permission. The flue will not be 'capped' and the outlet must be above ridge height.
- 7 Reason In the interests of the amenities of the locality in accordance with the NPPF.
- 8 Condition The premises shall only be used between the hours of 08.30 to 16.00 Monday to Friday, and at no time on Saturdays, Sundays, Bank or Public Holidays unless otherwise approved in writing by the Local Planning Authority
- 8 Reason In order that the Local Planning Authority may retain control over the development in the interests of the amenities of the locality in accordance with the NPPF.
- 9 Condition All activities on the site will be conducted in accordance with the document 'Noise and odour management plan 16/01826/noise and odour' at all times'.
- 9 Reason In the interests of the amenities of the locality in accordance with the NPPF.