

	<b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE</b>  <b>TO BE HELD ON THURSDAY, 17 January 2019</b>	
<b>APPLICATION REFERENCE NO:</b>  <b>18/02559/FL</b>	<b>TARGET DATE:</b>  <b>2 January 2019</b>  <b>Extended date:</b> <b>25 January 2019</b>	<b>GRID REF:</b>  <b>503544-483854</b>

## REPORT OF THE PLANNING SERVICES MANAGER – PSM/19/15

**SUBJECT: Change of use from light industrial unit (B1) to drive through car wash & tyre sales place (Sui Generis) at Mustang House Dunslow Road Eastfield Scarborough NORTH YORKSHIRE YO11 3UT for Mr Mohammed Abdalkarim**

### 1.0 THE PROPOSAL

1.1 This application seeks planning permission for the change of use of an existing light industrial unit (B1) to a drive through car wash and tyre sales unit (Sui Generis) at Mustang House, Dunslow Road, Eastfield. The site occupies a prominent plot within Scarborough Business Park / Industrial Estate, on the junction between Dunslow Road and Cayton Low Road. It is also located in a Drainage Sensitive Area (as defined by the Northeast Yorkshire Strategic Flood Risk Assessment) and within Groundwater Source Protection Zone 1 (as defined by the Environment Agency).

1.2 The site comprises an existing building with an area of hardstanding to the front (south) and a grassed area to the side (west). The proposed tyre sales and car valeting would occur inside the building, while the car washing activities would occur within / over a graded water capture / silt filtration system that would be installed within the ground to the front of the building. The proposed opening hours would be Monday to Saturday between 09:00 and 17:00, with Sunday and Bank Holiday opening hours to be between 10:00 and 16:00.

### 2.0 SCREENING OPINION REQUIRED?

2.1 No.

### 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None undertaken.

## 4.0 CONSULTATIONS AND COMMENTS

4.1 The following provides a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.2 Seamer Parish Council - it is considered that this application may lead to an increase in traffic flow to and from the site and that traffic exiting the site should therefore be required to turn left.

4.3 Highway Authority (NYCC) - Have expressed concerns relating to the discharge of water used to clean the vehicles onto the highway. Suggest that any water discharged onto the highway is a hazard to motorised vehicles, cycles and footway users particularly during cold weather. Recommend that measures be taken within the site to catch any water that may discharge on to the highway and that details of these measures be required by condition.

4.4 Environmental Health (SBC) - Having reviewed the above application I have no comments to make from a commercial regulation perspective. This is based on: 1) the applicant specifying working/ operating hours between 9am and 5pm. 2) the Klargest unit being acceptable to building Control and Environment Agency / Yorkshire Water for any trade effluent/ chemicals used to wash vehicles. If the plan is approved the working hours (9am until 5pm) should be part of the approval condition

4.5 Yorkshire Water - Consultation response awaited (deadline 24th January). Will be verbally reported to members of the Planning and Development Committee if received in advance of the meeting.

4.6 Publicity - Consultation period expires on 10th January 2019. Although no comments were received at the point of writing this report, any received prior to the committee meeting will be verbally reported to members.

## 5.0 RELEVANT SITE HISTORY

2018 - Change of use to a car auction house - Refused on the grounds that it was not demonstrated that sufficient space was available within the site to allow for manoeuvring of vehicles, including delivery vehicles, and to provide acceptable levels of car parking and storage. Also refused on the grounds that no information was provided to demonstrate that an additional area of hardstanding would not increase the rate of surface water runoff / discharge from the site.

1979 - Erection of a factory unit - Permitted (with Conditions)

## 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan

and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

### **Scarborough Borough Local Plan 2017**

**DEC 1** - Principles of Good Design

**DEC 4** - Protection of Amenity

**EG 5** - Safeguarding Employment Sites and Premises

**ENV 3** - Environmental Risk

### **National Planning Policy Framework**

None relevant

### **Scarborough Borough Supplementary Planning Documents**

None relevant

### **Local Planning Policy and Guidance**

None relevant

## **7.0 ASSESSMENT**

7.1 Taking into account the relevant planning policy, representations, consultation responses and all other material planning considerations, Officers consider the key issues in the determination of this application to be:

- A) Principle of development
- B) Site access, parking and the potential impact on the highway network
- C) Surface and foul water drainage and groundwater protection
- D) Potential impact on neighbouring amenity

#### **A) Principle of Development**

7.2 In terms of the principle of development, it should first be noted that the site is a former industrial unit (B2 use) that occupies a prominent plot within Scarborough Business Park / Industrial Estate, on the junction between Dunslow Road and Cayton Low Road. Local Plan policy EG5 seeks to safeguard against the loss of such "employment" sites and premises (B1, B2 and B8 uses) to other uses. The policy is only permissive of such proposals where:

- (a) it is clearly demonstrated that there is no reasonable prospect of the site being retained in an employment use; and
- (b) the proposed use is compatible with the nature of surrounding uses...

7.3 In this case, given that no information has been presented to demonstrate that part (a) of the policy applies, the principle of the proposed change of use of a prominent business park site from industrial (B2 use) to a drive through car wash & tire sales place (Sui Generis use) cannot be considered to comply with Local Plan policy. Nevertheless,

a balanced case for departing from the adopted policy approach could perhaps be made - on the basis that it would be reasonable to expect the proposed use to be in a business park / industrial estate location, thereby meeting part (b) of the policy - in the event that there are no other material considerations that weigh against the proposal. Indeed, it is suggested that other sites in more dense urban / residential environments may not be as ideal functionally, and are likely to be more beneficial being put to other uses such as housing.

## B) Site Access, Parking and Impact on the Public Highway

7.4 Local Plan policy DEC1 part (c) states that proposals should provide suitable and safe vehicular access and suitable servicing and parking arrangements. No concerns in respect of these matters have been raised by the Highway Authority. However, they have requested that measures be taken (over and above the proposed water capture system) to prevent water being discharged onto the adjacent highway and that details of these measures be provided by way of condition. Although officers consider this is not strictly a planning matter as the Highway Authority has primary legislation to address such discharges, the applicant has nevertheless submitted details of the site levels which demonstrate that any water not captured by the proposed catchment system would flow in a southerly direction towards an existing gulley and surface water drain, and thereby not onto the adjacent highway. The recommended condition is therefore not considered to be necessary.

7.5 Comments made by Seamer Parish Council in terms of requiring traffic exiting the site to turn left only are noted. However, it is important to note that no changes to the present access arrangements are proposed (where traffic can exit in both directions) and no objections in respect of site access were raised by the Highway Authority. The proposal is therefore considered to meet the requirements of Local Plan policy DEC1 part (c).

## C) Surface and Foul Water Drainage and Groundwater Protection

7.6 Local Plan policy ENV3 part (e) states (inter alia) that adequate provision for foul and surface water disposal should be made in advance of the occupation / operation of development. In this case, the proposed development does not involve the creation of any additional areas of hardstanding and as such would not increase surface water runoff. However, the proposed car washing activities would involve the discharging of water to the public sewer system through the proposed catchment / filtration system. Given that the site is located in a Drainage Sensitive Area, where the capacity of local drainage infrastructure is limited, Yorkshire Water (who control the sewer system) have been consulted in order to ascertain the suitability of the proposed water capture / filtration system and whether the rate of flow to the sewer should be controlled. While a response from Yorkshire Water has yet to be received at the time of writing this report, any required changes to the system and / or any flow rate restrictions could be required by way of condition. Subject to any relevant conditions or in the absence of any objections from Yorkshire Water, Officers consider that the proposal would accord with Local Plan policy ENV3.

7.7 The site is also located within Groundwater Source Protection Zone 1, where there is a need to ensure that development does not harm groundwater in sensitive areas

around drinking water sources and abstraction points. Although the water used in the car wash would be captured and filtered before being discharged to the sewer, the views of Yorkshire Water in respect of the suitability of the proposed catchment system and any potential impact on groundwater have again been sought. Similar to the observations made in respect of foul and surface water drainage, any required alterations to the proposal could be required by way of condition or secured under delegated authority if Yorkshire Water are satisfied that the principle of development is acceptable.

#### D) Amenity

7.8 Local Plan policy DEC4 states (inter alia) that development which causes significant harm to the amenity of existing and future occupants of land and buildings - by means including disturbance arising from noise, light pollution, etc. - will not be permitted. In this case, given that the proposed use would be set on the edge of an existing business park / industrial estate, with the nearest residential properties located approximately 75 metres away (to the north, across Cayton Low Road), it is very unlikely that the proposal would cause significant harm to existing levels of amenity. It should also be noted that no objections were received from Environmental Health officers, subject to the proposed business operating to the specified hours of opening. However, in these surroundings it is not considered necessary to impose an operating hours restriction. The proposal is considered to meet the requirements of Local Plan policy DEC4 accordingly.

#### 8.0 PRE-COMMENCEMENT CONDITIONS

8.1 There are no pre-commencement conditions recommended.

#### 9.0 CONCLUSION

9.1 While there is a basic presumption against the loss of existing employment (B Use Class) units to non-employment uses, providing that a satisfactory resolution can be reached with Yorkshire Water in terms of drainage and groundwater issues, Officers do not consider that there are any other material considerations that weigh against the proposed change of use. Therefore, Officers consider on balance that the proposed change of use to a drive through car wash and tyre sales place is acceptable in this instance. However, it should be noted that this conclusion would have to be revisited in the event that a formal objection is received from Yorkshire Water. Indeed, in that scenario, planning permission would be refused under delegated authority, contrary to the formal recommendation of this report.

9.2 It is not considered that the positive recommendation made in this report would generate additional pressure to release employment land / units for non-employment uses as other competing uses are often subject to other land use constraints, e.g. the general non-compatibility (on amenity impact grounds) between housing and industrial units and the need to follow the sequential ('town centre first') approach for town centre uses.

## POSITIVE AND PROACTIVE STATEMENT

The application as submitted is considered to be acceptable and was therefore recommended for approval subject to the receipt of comments from Yorkshire Water relating to surface water management / drainage issues.

## RECOMMENDATION

PERMISSION BE GRANTED subject to no new material planning considerations being raised by the expiry of the press notice (10th January 2019), no objections being raised by Yorkshire Water and conditions relating to the following points, including any suggested conditions by Yorkshire Water.

OR, should Yorkshire Water object to the proposal on grounds that cannot be resolved;

PERMISSION BE REFUSED on drainage and / or groundwater related grounds under delegated authority.

- 1 The development hereby granted shall be carried out in strict accordance with the submitted plans, reference numbers:

Proposed Elevations and Floor Plan (drawing number: MA/2A). Received by the Local Planning Authority on 7th November 2018.

Reason: For the avoidance of doubt.

*David Walker*

### **Background Papers:**

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR MATTHEW LICKES ON 01723 232476 email [matthew.lickes@scarborough.gov.uk](mailto:matthew.lickes@scarborough.gov.uk)



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