

Agenda Item A18	Committee Date 20 th September 2010	Application Number 10/00802/CU
Application Site 2 Old Station Yard Kirkby Lonsdale Carnforth Lancashire	Proposal Retrospective application for the part change of use of existing vehicle storage and maintenance building to storage distribution and business use	
Name of Applicant Alan Stephenson And Son	Name of Agent JMP Architects Ltd	
Decision Target Date 24 September 2010	Reason For Delay None	
Case Officer	Mr Karl Glover	
Departure	None	
Summary of Recommendation	Approval subject to conditions	

1.0 The Site and its Surroundings

- 1.1 The site is located at the northern end of the Old Station Yard industrial area, to the South of Kirkby Lonsdale and the west of the A65. The industrial estate is bounded by a high bund with semi-mature screen planting on all sides except the South and is surrounded on all sides by open, undulating Countryside. There are two residential properties adjacent to the southern end of the estate close to the estate road entrance and a further residential property to the east of the estate mid way up its length, separated by narrow fields and access from Long Level (the old Roman Road running north/south to the estate).
- 1.2 The estate is accessed from a cul-de-sac section of former A65 road which has a good junction with the present A65. Unit 2 currently consists of 5 subdivided units (albeit within breach of the previous planning condition) and are occupied and operated as follows:
- **Unit 2a** Alan Stephenson Coaches (This unit is located at the furthest most part of the building and has an aspect of business and storage use and was extended under application number 06/00090/FUL); Stephenson's Coaches have reduced the amount of coaches they operate and have a maximum of 6-7 staff most of which will be out on trips/visits.
 - **Unit 2b** is occupied by Mortimer's Storage and is used for storage only as an overflow from the adjoining metal fabricators. As a storage only unit for the adjoining business it is only accessed by a maximum of 2 staff on rare occasions as and when required.
 - **Unit 2c** is occupied by Scott's Storage for the storage of motor vehicles with a minimum aspect of body repair work carried out from within the unit. Maximum number of staff would be 2 with two required parking spaces for staff vehicles;
 - **Unit 2d** is occupied by La Maison Storage, a furniture store, (no aspect of retail) that provides for town location furniture businesses. No work takes place in the unit however once

a week deliveries and distribution vans attend the site. Members of the public can potentially pick up items of furniture from the unit. Maximum number of staff at any one time is two.

- **Unit 2e** is occupied by Kirkby Lonsdale Brewery, a micro brewery, which operates 2 days a week (Monday and Tuesdays) with a maximum number of two staff. This is one of the larger sections of the unit and is used for storage with a delivery vehicle and staff car park. Maximum vehicle movements approximately 6 per week.

2.0 The Proposal

- 2.1 The applicant seeks retrospective planning consent for the part change of use of the existing vehicle storage and maintenance building to a general storage and distribution and business use (Mixed use of Class B1 and B8) for 5 units.

3.0 Site History

- 3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These are listed in the table below.
- 3.2 The most relevant historic applications in relation to this retrospective application is the original permission for the erection of 4 industrial units and associated access and access road with landscaping (**96/001325/FUL**). There was no condition on the original permission preventing the units from being subdivided, however the application site (Unit 2) formerly known as Stephenson's Coaches applied and were granted consent for an extension to the vehicle maintenance workshop under application number **06/00090/FUL**. Condition number 8 on this permission restricted the use solely for light industrial and storage uses associated with the existing coach business and should not be used for any other purpose without prior consent from the local planning authority (LPA).
- 3.3 An enforcement case was opened following a complaint by a nearby resident informing the LPA that the units have been subdivided, following this enquiry the applicant was advised to submit a planning application to regularise the sub divisions and associated uses within Unit 2 Old Station Yard.

Application Number	Proposal	Decision
79/01314/CU	Use land as storage compound for petroleum gas	Refused
85/00061/FUL	Erection of a new building in connection with haulage business	Refused
89/00635/ADV	Erection of signs	Accepted
91/00470/CU	Change of use to temp storage site with portable building	Accepted
96/00135/FUL	Erection of 4 industrial units and associated access and access road and landscaping	Accepted
01/01362/CU	Change of use of builder's workshop to storage and maintenance of coaches with associated offices and alterations to approved elevations at Unit 2.	Accepted
03/01435/FUL	Erection of extension to existing unit/maintenance facilities	Accepted
06/00090/FUL	Erection of a single storey extension to existing vehicle maintenance workshop	Accepted

4.0 Consultation Responses

- 4.1 The following responses have been received from statutory consultees:

Statutory Consultee	Response
Parish Council	No objections to the proposal.
Environmental Health	No objections to the proposal – Hours of operation condition requested.
Lancashire County Highways	No objections to the application – Recommended a condition for further details of the proposed mini bus parking spaces are provided and suggested that cycle storage

5.0 Neighbour Representations

5.1 One letter of objection has been received by a nearby resident who has raised concerns primarily in relation to the following points:

- Traffic concerns- suggested that Unit 2 will generate more traffic in and out of the service road
- Pollution – The micro brewery (Kirkby Lonsdale Brewery LTD unit 2e) cause pollution both airborne in terms of smells and from liquid waste running in to a nearby beck
- Noise – early morning and late night noise from traffic passing
- Vehicle parking
- Foul sewage issues
- Fresh water supply to station yard
- Trade effluent
- Employment and the hours of work

6.0 Principal Development Plan Policies

6.1 National Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

National Planning Policy as laid down in Planning Policy Statements (PPS1 – Delivering Sustainable Development, PPS4 – Planning for Sustainable Economic Growth, PPS7 – Sustainable Development in Rural Areas) and Planning Policy Guidance Note 24 (Planning and Noise) is relevant to the consideration of this application. In particular:-

- PPS1 paragraph 19 suggests that planning authorities should seek to enhance the environment as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options pursued. Where such impacts are unavoidable, mitigation measures should be considered.
- PPS 4, Policy EC6 (Planning for Economic Development in Rural Areas) suggests that LPA's should ensure that the countryside is protected for the sake of its intrusive character and beauty, the diversity of its landscape, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all to this and, economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled.
- Previously paragraphs 4, 5, 17 and 18 of PPS 7 – relating to the location of development and the re-use of buildings in the countryside – would have been applicable but these paragraphs have since been replaced by the provisions of PPS4.
- PPG24 Paragraph 10 states that much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development. Nevertheless, local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. They should also bear in mind that a subsequent intensification or change of use may result in greater intrusion and they may wish to consider the use of appropriate conditions.

6.2 Local Planning Policies

This site is located within a small but long established commercial/industrial estate, formerly a railway station goods yard. The estate is covered by the blanket 'Countryside' designation of the 'Saved' Proposals map to the Lancaster District Local Plan and Saved Policy **E4** (The Countryside area) of that plan. The site itself is not otherwise specifically allocated in the plan.

Saved Policy **E4** requires development in the countryside area to be; in scale and keeping with the scale and natural beauty of the landscape; appropriate to its surroundings in terms of siting, scale,

design, materials, external appearance and landscaping; to have no significant adverse effect on nature conservation or geological interests and; to have satisfactory access, servicing and parking arrangements.

Lancaster District Core Strategy Policy **SC1** (Sustainable Development) seeks to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change and sets out a range of criteria against which proposals should be assessed.

Core Strategy Policy **SC3** (Rural Communities) seeks to build healthy sustainable communities by empowering rural communities to develop local vision and identity, identify and meet local needs and manage change in the rural economy and landscape, but essentially seeks to focus development on villages identified as having fire essential services. Development outside these settlements will require exceptional justification.

Core Strategy Policy **E1** (Environmental Capital) seeks to safeguard and enhance the Districts environment by a range of measures which include; resisting development which would have a detrimental effect on environmental quality and public amenity and; directing development to locations where previously developed land can be recycled and reused.

7.0 Comment and Analysis

- 7.1 The whole of the industrial estate is seen to be an established rural employment site, providing employment opportunities for not just this District, but also the South Cumbria and Craven Districts. It is well located between these, on principal roads connecting Cumbria and Scotland with West Yorkshire. In visual terms the impact of the site on the surrounding rural area is limited by the significant mature landscaping to the rear and units 1 and unit 3 which are located immediately to the north and south.
- 7.2 Unit 2 has been operating as the above for a number of years in which time there has not seen to be any major or significant impact as a result of the subdivision of the units. Three of the units are being occupied for storage only and whilst they do attract vehicle movement, these do not appear to be regular or over-intensive. Additionally, the use of the units as proposed by this retrospective submission is not considered to create any adverse impacts such as noise or residential amenity impact.
- 7.3 This is reflected in the consultation responses of the County Highways Department and the Environmental Health Service. Neither have raised objection on highway or amenity grounds (the latter having considered all matters of environmental impact). Both, especially County Highways, will have paid regard to the cumulative impacts that arise from the site as a whole. However, County Highways are clear that the proposal does not warrant an objection on highway or traffic grounds. They recommend the imposition of a condition (compliant with Policy SC1 of the Core Strategy) to include cycle storage facilities in the yard area, thus providing an opportunity for cycle travel for any local employees.
- 7.4 The local planning authority has considered the views of the objector in reaching the recommendation on the following page. They have made comment that the business has circumvented the planning process and planning permission is now guaranteed. As Members of the Planning Committee know, this is incorrect and retrospective applications have been resisted before both by Members of the Planning Committee and by Planning Officers under delegated powers. It is true that retrospective applications do not aid the transparency of the planning process and the fact that a change of use has occurred without the appropriate consent is of course regrettable. But it is also true that Members and Officers alike have to consider the planning merits of the proposal. Refusing an application solely because it is retrospective in nature is not defensible and would almost certainly lead to costs being awarded against the City Council at appeal.
- 7.5 The planning merits include traffic and other amenity impacts. The statutory consultees have considered both and have no objections. However, the local planning authority believes further safeguards need to be in place before recommending the grant of consent. Firstly, that permitted development rights for commercial business be removed so that the yard area cannot be built upon. Secondly, the permission should in each case be made personal to the business currently contained therein. This will prevent more traffic-intensive uses (still potentially within the same use class)

occupying the units in the future, and will ensure that any future use will be subject to a planning application for consideration of any impacts.

- 7.6 As an aside the objector also refers to limitations (conditions) placed upon their own business (a pottery studio). Whilst this isn't a matter relevant to the current application, it is open to them to re-apply for an extension of their business should they believe that this is now necessary and can be accommodated without detriment to their neighbour(s).

8.0 Planning Obligations

- 8.1 None.

9.0 Conclusions

- 9.1 There are no objections to the development from statutory consultees. Most importantly the Environmental Health Service has concluded that with the imposition of a suitable condition to restrict the hours of operations within the site they would not raise objections to the development.
- 9.2 The retrospective units are seen to operate without any major adverse or detrimental impact on the surrounding amenity and countryside area or on the nearby residents in close proximity to the entrance of the site.
- 9.3 It is considered therefore that this proposal can be supported, subject to the conditions referred to in paragraph 7.5 of the report and also listed below.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Development to be carried out in accordance to approved plans
2. Amended plans/Further details provided on 25th August 2010
3. Personal permission restricting occupancy of the units as follows:

Unit 2a Alan Stephenson Coaches

Unit 2b Mortimer's Storage

Unit 2c Scott's Storage

Unit 2d La Maison Storage

Unit 2e Kirkby Lonsdale Brewery

with no further sub-division or amalgamation of units to occur without the express consent of the local planning authority.

4. Removal of permitted development rights of Part 8 of Schedule 2 of GDPO (industrial/commercial buildings)
5. No operations to occur before 0700 or after 1800 on any weekday, Saturdays nor at all or on Sundays or bank holidays.
6. No vehicular movements to or from the site between 00:00 and 06:00
7. All vehicles to be parked within the yard area and no parking on the access road or surrounding highways
8. Related loading and unloading as granted in app 96/00135/FUL shall be kept available at all times
9. Use of buildings to be kept limited to light industrial, business and storage only as indicated on approved plan
10. No work to be carried out side of the buildings on site
11. Details of the parking of mini buses and car parks shown on plan to be provided and available within one month of the date of this permission
12. Details of covered cycle storage to be provided and retained on site – details to be agreed in writing.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.