

Committee Report

Application No:	DC/17/00156/COU
Case Officer	Graham Stephenson
Date Application Valid	26 April 2017
Applicant	Wilsons Auctions
Site:	Site Of Scottish Motor Auctions Group Shadon Way Birtley DH3 2SA
Ward:	Birtley
Proposal:	Change of use from unused land to a hardstanding parking area with drive through route and enclosure by means of a new perimeter security fence
Recommendation:	GRANT RETROSPECTIVE PERMISSION
Application Type	Change of Use

1.0 The Application:

1.1 This application was deferred at the meeting of the Planning and Development Committee on 21 June 2017 to allow the Committee to visit the site. Members visited the site on 6 July 2017.

1.2 DESCRIPTION OF THE APPLICATION SITE

1.3 The application site is a triangular plot of land to the south of the established motor auction site, which is located at the south eastern side of the Portobello Industrial Estate. Previously it was an area of grass with a tree belt running along the southern boundary but recently, without the benefit of planning permission, this area of land to the south has been laid with hardcore for the purpose of storing vehicles and enclosed by a 2.3 metre high paladin fence. An emergency access has also been created off Birtley Lane with some of the planting removed to accommodate this access. It should be noted that the area in land in question and subject to this application is in the ownership of the auction mart and has been included within the red line of previous planning applications. As such although up until recently it has been accessible by the public it could be considered to form part of the auction site.

1.4 The triangular piece of land is bounded by Birtley Lane to the south and Portobello Road to the east. To the north of the site is auction site and, immediately adjoining the site to the west is a residential property. The residential properties to the south are separated from the site by the trees and Birtley Lane.

1.5 DESCRIPTION OF THE APPLICATION

1.6 This application therefore seeks retrospective planning permission for a change of use from unused land to a hardstanding parking area with drive through route and enclosure by means of a new perimeter security fence.

1.7 PLANNING HISTORY

00362/90 - Advert Consent refused for the display of three-sided hoarding size 5.4m x 1.3m on supporting frame reading "COOPER'S MOTOR AUCTION" in field between A1M and Portobello Road and the display of a three-sided hoarding. 02.05.1990

00549/90 - Planning permission granted for the erection of extension to existing car auction premises to provide reception area, new canteen, office extension and additional vehicle display area, and new gatehouse and 2.6m high boundary wall. 04.10.1990

489/01 - Planning permission refused for the laying out of car park on the land at southern end of the site and formation of vehicular access onto Birtley Lane. 21.06.2001

DC/03/01913/FUL - Application withdrawn for the formation of parking area for storage of vehicles on land south of existing premises including erection of 2.7m high palisade fence. 05.02.2004

DC/06/01318/FUL - Planning permission granted for the erection of single-storey extension on south and west elevations of premises. 09.10.2006

DC/07/00999/FUL - Planning permission granted for the erection of a single-storey extension on west side of premises (revised application). 30.08.2007

DC/08/01178/FUL - Planning permission granted for the erection of a new palisade fence with razor wire attached to top edge and steel gate with razor wire attached to top (overall height 2400mm) on southeast boundary of site (Retrospective) (amended 08.10.08). 10.10.2008

2.0 Consultation Responses:

Northumbria Water No Objections

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) (England) Order 2015. 13 letters of objection have been received from neighbouring residents. Councillor Paul Foy has also objected to the application. The issues raised have been summarised below:

* Increased noise, site already operates through the night with jet washers and vehicle movements.

- * Impact on highway safety. Transporters already unload on Portobello Road.
- * Cars are being stored on land next to the North House Caravan Park opposite the entrance to Scottish Motor Auctions, i.e. over the other side of Portobello Road which is causing difficulties for the ever increasing traffic on Portobello Road when loading and unloading transporter vehicles.
- * Floodlights have an impact on the amenity of residents.
- * Emergency access is not useable but if open to the public would encourage people to park on Birtley Lane.
- * The emergency gate has not been requested by the Fire Authority
- * The emergency gate is inaccessible to Fire tenders
- * The emergency gate is permanently blocked by parked cars.
- * The loss of green space already affected by the increasing encroachment of the industrial estate into the residential area is further exacerbated by this application.
- * The piece of land between Scottish Motor Auctions & Birtley Lane was public land & has always been a buffer between the Trading Estate & the residential area of Birtley Lane.
- * The heavy tree line provided a barrier between the land and the residential area and also reduced both light and sound pollution leaking out of the industrial estate.
- * A similar planning application was refused in 2004 because of objections from local residents (DC/03/01913/FUL).
- * Contrary to policy DC2 of the Unitary Development Plan.
- * Impact on trees.
- * The new car park is only feet away from the living room and kitchen windows of 29 Fell Close. Even with double glazing, the noise is dreadful. The noise test levels when applying for the construction of 29 Fell Close never had to take that into account.
- * Increased risk of flooding.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

DC1J Substrata Drainage-Water Quality

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV44 Wood/Tree/Hedge Protection/Enhancement

ENV61 New Noise-Generating Developments

5.0 Assessment of the Proposal:

- 5.1 The main planning issues in this case are considered to be the principle of development and the impact on visual amenity, residential amenity and highway safety.
- 5.2 **PRINCIPLE OF DEVELOPMENT**
The application site was previously grassed over and is outside the boundary of the Portobello Primary Employment Area, however it does not benefit from any protection in terms of designated public open space.
- 5.3 It is noted that in 2003 a similar application was withdrawn due to concerns with the proposal and the loss of a buffer between the industrial estate and residential properties. It has also come to light that an application was also refused in 2001 for the use of the land for car parking and a new access off Birtley Lane.
- 5.4 However after assessing this application it is considered that it is the tree belt which primarily provides the buffer and as this tree belt is proposed to stay, with improved screening and planting, which will be addressed later in the report, this issue could be overcome. It is also important to note that the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, potentially allow works such as the erection of fencing around the site and the laying of hardstanding to be undertaken without requiring planning permission. Fundamentally this would have same impact on the buffer zone as the application submitted and therefore this fall back position is a material consideration which has to be taken into account.
- 5.5 As a consequence providing all other material planning considerations are satisfied, it is considered the principle of extending the auction site is acceptable.
- 5.6 **VISUAL AMNENITY**
As highlighted above it is acknowledged that the land as it previously was, did provide a buffer between the edge of the industrial estate and the residential properties to the south and the development has encroached onto this buffer. However as discussed it is considered the tree belt along Birtley Lane does still act as an adequate buffer and providing planting is reinstated, where the emergency access has been created, this buffer will be retained. The paladin fence is not ideal as cars can still be viewed behind it and for this reason it is recommended a timber fence is erected either instead of this paladin fence or if security is required in front of the paladin fence. Final details of the boundary fence and tree planting can be conditioned (CONDITIONS 6,7,8 AND 9).

- 5.7 The boundary treatment and the replacement planting would block up the emergency access but it has been confirmed that this access is not a necessity and this is addressed in more detail later in the report.
- 5.8 Therefore subject to the conditions recommended it is considered the impact on the visual amenity of the streetscene is not significant and would not conflict with the aims and objectives of the National Planning Policy Framework (NPPF), policy CS15 of the Core Strategy and Urban Core Plan (CSUCP) and policies ENV3 and ENV44 of the Unitary Development Plan (UDP).
- 5.9 **RESIDENTIAL AMENITY**
A number of concerns have been raised about noise from the auction site, in particular from jet washers and general vehicle movements at all times of day and night. As part of this application it would be difficult to address those concerns as they relate to the existing site, although they have been forwarded to Environmental Health but it can be ensured that this development does not exacerbate the problem. With this in mind it is recommended that no jet washing or the valeting of cars shall take place on this part of the wider site (CONDITION 2) and that vehicles can only be moved within this part of the site between the hours of 8 am and 8 pm Monday to Friday, 9 am and 5 pm on a Saturday and 10 am and 2 pm on a Sunday (CONDITION 3). Details would be required of any lighting that is to be installed on the site (CONDITIONS 10 AND 11) and the erection of a timber fence would also act as an acoustic barrier and would stop light s from cars shining into neighbouring properties, which would also help in reducing the impact of the existing auction site on neighbouring properties.
- 5.10 With these conditions in place, although it is accepted the movement of vehicles would have some impact on the properties closest to the site, especially number 29 Fell Close it is considered the impact would not be significant or sufficient to warrant refusal. The impact would also not be significantly greater than from the existing auction site. It is also acknowledged that the stored cars are visible from 29 Fell Close and this would be a poorer outlook than the previous green space but fencing and planting will provide some screening and overall the impact would not be sufficient to warrant refusal, especially as the noise issues can be addressed through conditions.
- 5.11 As such it is considered that subject to conditions, the impact on the amenity of nearby residents is acceptable and does not conflict with the aims and objectives of the NPPF, policy CS14 of the CSUCP and policies DC2 and ENV61 of the UDP.
- 5.12 **HIGHWAY SAFETY**
The proposed emergency access, which is already in situ, is unacceptable as it is not fit for the purpose of carrying a fire tender due to the gradient across the embankment/verge and the absence of a suitable hardened surface. Also, the dropped kerb in front of this access is intended for the crossing of pedestrians only and will not be to the construction standards required for vehicular impact.

- 5.13 An annotation on the site layout plan indicates that the emergency route was installed at the request of the Local Fire Officer however, after contacting the Fire Service, it is understood that no formal recommendations were made during an audit of the site by the Fire Service some time ago.
- 5.14 In light of this it is recommended the emergency access is blocked up with the fence and the gap that has been created, re-planted. This will be covered under conditions 3,4,5 and 6.
- 5.15 The drive through element of the application is to allow vehicles to be driven in at one end of the site and out of the other to make moving the cars easier and simpler and to reduce the number of manoeuvres.
- 5.16 Appropriate drainage must be installed to ensure that there is no run-off onto the public highway on Birtley Lane. Drainage has been addressed later in the report.
- 5.17 It is acknowledged that a number of concerns have been raised with regards to vehicle deliveries, the storage of cars on other sites and general parking and high levels of congestion on the surrounding public roads. However it is considered these issues are not directly related to this application and in all likelihood would continue irrespective of whether this application is approved or refused.
- 5.18 Therefore these issues are being looked at separately to see what can be done and to ensure the site is not in breach of any previous planning permissions or that unlawful development is not taking place.
- 5.19 Consequently it is considered the development subject to this application does not have any adverse impact on highway safety and does not conflict with the aims and objectives of the NPPF or policy CS13 of the CSUCP. However the applicant will be advised that further consideration should be given to the operation of the wider site and how vehicles are delivered and also investigations are taking place to establish whether there is any breach of planning permission.
- 5.20 DRAINAGE
The application site is located within Flood Zone 1 on the Environment Agency Flood Map and therefore deemed to be a low flood risk area.
- 5.21 However surface water flooding and associated flow routes are identified along Birtley Lane which runs from east to west and there should be no increase in the discharge of water from the site into highway drains. In addition concerns have been raised by neighbouring residents about an increase in flood risk due to the hardstanding.
- 5.22 Therefore in accordance NPPF and policy CS17 of the Core Strategy, due consideration needs to be given to the drainage of the site. Details of the site's drainage have been requested but at the time of writing this report no

information has been provided. As a result a drainage scheme is required and this can be conditioned (CONDITIONS 4 AND 5).

5.23 The scheme should prioritise the use of Sustainable Drainage Systems (SuDS), following the hierarchy provided below:

- I. Infiltration base SuDS;
- II. A watercourse
- III. A surface water sewer; and
- IV. A combined sewer

5.24 With the tree belt and landscaping being retained along the southern edge of the site it is considered an appropriate drainage system can be provided in accordance with the NPPF, policy CS17 of the CSUCP and policy DC1 of the UDP.

5.25 CIL

Gateshead Council is a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related. As such no CIL charge is liable.

6.0 CONCLUSION

6.1 Taking all relevant issues into account it is recommended that planning permission is granted, subject to conditions, as the impact on visual and residential amenity as well as the impact on flooding is acceptable and in accordance with national and local planning policy.

7.0 Recommendation:

That permission be GRANTED RETROSPECTIVELY subject to the following condition(s) and that the Strategic Director of Communities and Environment be authorised to add, vary and amend the planning conditions as necessary:

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

Proposed Layout Plan

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

There shall be no jet washing or valeting of motor vehicles within the application site.

Reason

In the interests of residential amenity and in accordance with policy CS14 of the Core Strategy and policy DC2 of the Unitary Development Plan.

3

Vehicles shall only be moved within the site subject to this planning permission between the hours of 8 am and 8 pm, Monday to Friday, 9 am and 5 pm on a Saturday and 10 am and 2 pm on a Sunday. Outside of these times, no vehicles shall enter or egress the site or be moved within it.

Reason

In the interests of residential amenity and in accordance with policy CS14 of the Core Strategy and policy DC2 of the Unitary Development Plan.

4

Within two months of planning permission being granted a detailed scheme (including a timetable for implementation) for the provision of surface water drainage works within the application site, has been submitted to and approved in writing by the Local Planning Authority. This shall also include details of oil interceptors.

Reason

In order to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with the NPPF and Policy CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

5

The surface water drainage scheme approved under condition 4 shall be implemented in accordance with the timetable approved as part of that condition and shall be maintained as such thereafter.

Reason

In order to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with the NPPF and Policy CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

6

Notwithstanding the approved details, within two months of planning permission being granted final details of the timber fence to be erected around the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate the location, appearance and height of the fence.

Reason

In the interests of residential and visual amenity and in accordance with policies CS14 and CS15 of the Core Strategy and policies DC2 and ENV3 of the Unitary Development Plan.

7

The timber fence shall be implemented in accordance with the details approved under condition 6 within one month of the condition being discharged and shall be retained as such thereafter.

Reason

In the interests of residential and visual amenity and in accordance with policies CS14 and CS15 of the Core Strategy and policies DC2 and ENV3 of the Unitary Development Plan.

8

Within two months of planning permission being granted a replacement tree planting scheme along Birtley Lane shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include numbers, location, size and species of the replacement trees.

Reason

To protect the character and amenity of the area in accordance with policy CS15 of the Core Strategy and policies ENV3 and ENV44 of the Unitary Development Plan.

9

The replacement tree-planting scheme approved under condition 8 shall be completed in full accordance with the approved details within the first available planting season and shall be maintained for a period of 5 years commencing on the date of practical completion. The Local Planning Authority shall be notified in writing of the date of practical completion within seven days of that date. During this period any trees or planting which die, become diseased or are removed shall be replaced in the first available planting seasons (October to March) with others of a similar size and species and any grass which fails to establish shall be re-established. The Local Planning Authority shall be notified in writing of the date of replanting within seven days of that date.

Reason

To ensure the replacement tree planting is undertaken within a reasonable time scale to protect the character and amenity of the area in accordance with policy CS15 of the Core Strategy and policies ENV3 and ENV44 of the Unitary Development Plan.

10

Prior to the installation of any lighting within the application site, final details of the location and height of any lighting columns, the design of the lights themselves, lux levels and light spillage, shall first be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of residential and visual amenity and in accordance with policies CS14 and CS15 of the Core Strategy and policies DC2 and ENV3 of the Unitary Development Plan.

11

Any lighting within the application site, shall be implemented in accordance with the details approved under condition 10 and shall be retained as such thereafter.

Reason

In the interests of residential and visual amenity and in accordance with policies CS14 and CS15 of the Core Strategy and policies DC2 and ENV3 of the Unitary Development Plan.



