



Committee Report

Planning Committee North - 9 November 2021

Application no DC/20/1126/FUL

Location

Suffolk Cars
Halesworth Road
Bramfield
Suffolk
IP19 9HP

Expiry date 7 May 2020

Application type Full Application

Applicant Alan Greening Architect

Parish Bramfield

Proposal Change of use from Water machine manufacturing and distribution to Car Repairs and Sales premises by appointment only. Existing workshops at rear, existing showroom at front, existing offices adjoining showroom. Display of vehicles on existing concrete hardstanding at front of buildings.

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1. Summary

- 1.1 This is an application seeking retrospective planning permission for the change of use from a water machine manufacturing and distribution facility to a car repairs/servicing and car sales use at the premises now named 'Suffolk Cars' (formerly Monarch Water, a B8 use).
- 1.2 The unauthorised use is subject of an open enforcement investigation, and this retrospective application seeks to regularise the situation to consent the continued operation at the site.
- 1.3 Following a lengthy period of consideration and extensive monitoring of the site and dialogue with the applicant and their agent, officers consider that the use can be made acceptable in planning terms through the imposition of planning conditions (which the

applicant is willing to accept, should permission be granted). The mixed use of the site delivers local employment which is an economic benefit, and re-purposes a long-standing commercial site for a viable employment use. With the necessary conditions applied, officers consider the scheme to accord with the Development Plan whereby permission can be granted.

- 1.4 Granting planning permission with clear, enforceable planning conditions means that the Council will be able to ensure compliance with those conditions and that the use is carried out in a manner that is compatible with the semi-rural context, inclusive of several residential properties.
- 1.5 Because the application raises complex planning judgments; is retrospective in nature; and has generated localised public interest, the application has been referred direct to Planning Committee (North) for determination by the Head of Planning and Coastal Management to enable Members to determine the application and for interested parties to be given the opportunity to address the Committee.

2. Site description and Planning History

- 2.1 The application site is located in the countryside on the western side of Halesworth Road (A144). The site lies to the west side of the road, opposite a small group of residential properties at Mill View. To the north of the site is paddocks and stables, and north of that a residential property. Immediately south and west of the site is open countryside. The site is located approximately halfway between the village of Bramfield (to the south) and the town of Halesworth (to the north).
- 2.2 The site was formerly the base of Monarch Water - a company that specialises in the assembly/manufacturing and distribution of water softeners. The building formerly comprised office, warehouse and production floorspace, together with yard and car parking facilities on a site extending to approximately 0.57 acres (0.23 hectares). The building was previously extended to create additional facilities/floorspace and has an approximate gross internal area of 5,000 sq. ft (465 sqm).
- 2.3 The building on site changed to a B8 use (Storage and Distribution Centre) for Monarch Water under planning ref. C/03/0709 - which permitted the change of use from car sales/workshop to use for assembly & distribution of water softeners. It is not clear how the car workshop with ancillary sales use was permitted, however it appears that such a use existed for around 10-or-so years prior to the change to a B8 use in 2003. The B8 use, by Monarch Water, ceased at some point prior to the summer of 2019.
- 2.4 In October 2019, the applicant sought pre-planning application advice from the Local Planning Authority (LPA) on the potential change of use to car servicing and sales. Officers met with the applicant on site in November 2019 to discuss the proposed change of use. At that meeting, officers made expressly clear that planning permission for the use would be required but that, subject to appropriate supporting information and controls of the use through planning conditions, the use could potentially be supported should an application be made.

- 2.5 However, the applicant commenced the use on site at the beginning of 2020 without planning permission. A planning enforcement complaint was raised and the use was subject to investigations in respect of this breach of planning control.
- 2.6 In March 2020, the applicant then submitted this retrospective application seeking planning permission for the change of use, as follows:

“Change of use from Water machine manufacturing and distribution to Car Repairs and Sales premises by appointment only. Existing workshops at rear, existing showroom at front, existing offices adjoining showroom. Display of vehicles on existing concrete hardstanding at front of buildings.”

3. Proposal

- 3.1 This application has been under consideration for a long period of time. This is for several reasons: first, that it was submitted at the beginning of the Coronavirus pandemic, and the challenges faced around adapting to that and undertaking safe site visits etc, meant that it was not possible during lockdown periods to undertake the detailed site assessment needed to properly appraise the scheme; but second, and more significantly, it has been necessary for officers to monitor the ongoing use of the site to assess whether it can be carried out in a manner that is acceptable in planning terms.
- 3.2 The initial information submitted to support the application was also deemed, by officers, to be substandard and there has been considerable discussion between officers, the applicant, and their agent, to get the appropriate level of detail to enable a determination on this application to be made. The key supporting documents provided being a Noise Assessment/Acoustic Report (received December 2020) and then a revised Block Plan (received October 2021).
- 3.3 In terms of the detail of the development, the use of the site is a mixed-use comprising car sales and car servicing/repairs and valeting. This is considered to be a sui generis use, meaning that it does not fall squarely within a defined use class in the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 3.4 The forecourt area of the site is primarily for the parking/display of sales vehicles. Vehicle display is also incorporated into the eastern part of the building. The sales element of the business operates whereby potential purchasers make an appointment to inspect a vehicle, and therefore the internal showroom area is used for those vehicles and to accommodate those appointments. This invariably requires routine and significant manoeuvring of vehicles on the site to rotate vehicles in-and-out of the building.
- 3.5 The western half (approximately) of the building is used for the servicing and repair of vehicles. Vehicles are transported into the workshop area via a concrete access drive that runs from the forecourt to the northern side of the building where there is a loading bay. In the concrete area to the north side of the loading bay, there is some additional car parking (generally vehicles to be serviced/repared rather than sales vehicles), and some storage containers. This area of hardstanding, to the north side of the building is used for the washing/valeting of vehicles. This washing/valeting of vehicles appears to be linked primarily to those vehicles being sold, although presumably it also covers vehicles being serviced/repared.

- 3.6 The amended block plan, provided October 2021, shows the parking provision on site. This updated plan included, at the request of officers, clear provision for the parking of visitor's cars (4no. spaces indicated to the northern side of the forecourt). There would then be space within the forecourt and grassed area to the south for the parking of 23 sales vehicles. To the northern side of the workshop/loading bay, there would be space for the parking of four vehicles to be serviced/repaired. Six or seven vehicles for sale can be accommodated within the building display room.
- 3.7 The applicant has set out that they seek planning permission to operate between the hours of 08:00 to 17:00 Monday to Saturday, and with no opening on Sundays and Bank Holidays. Officers have queried this extensively with the applicant, to ensure that this is a realistic and viable way to operate. The applicant has given assurances that is the case, and is willing to accept a planning condition, in the event planning permission is granted, to limit site operation to those hours.

4. Consultations/comments

- 4.1 The application has been subject of significant interest from nearby residents of the site, who raise concerns about the amenity impacts of the ongoing use. The objections to the application have been received from residents to the north at Willow End, and also residents to the East at Mill View.
- 4.2 In terms of the comments received, there is a mix of formal representations published on the public access page, and then also informal correspondence with the case officer raising several matters. Taking all of that communication, the key material planning issues raised are listed as follows:
- Visitors to the site are parking within and immediately around the entrance overlapping onto the A144, this restricts the entrance and is a risk to users of the A144.
 - The site is used from as early as 6am to 7 or 8pm in the evenings.
 - Work is taking place outside the hours of operation put forward in the application.
 - Residents who park in the layby adjacent the site no longer have access to this when returning home from work.
 - The Council should undertake an unannounced site visit.
 - The use should be appointment only.
 - Lack of space for customer parking on the site.
 - Double yellow lines should be painted on the roads around the site.
 - Repeatedly, trucks and large delivery vans park parallel to cars parked in the layby, straddling the A144 and pushing passing traffic onto the centre line.
 - Operation has no regard to local amenity.
 - Continued operation well outside of hours put forward in the application.
 - In excess of forty vehicles parked on the site and out into the layby.
 - Pressure washing on the northern part of the site generates noise and disturbance.
 - The roller shutter doors on the north side are constantly open, and noise transmits out to property to the north.

- Noise from revving car engines, staff shouting and swearing and general noisy activities.
- Repairs and servicing being undertaken outside of the building.
- The noise report is fundamentally flawed and misleading and does not represent the noise that emanates from the Suffolk Cars Operations.
- The noise and disturbance from the site are audible from nearby properties harming living conditions.
- Trucks, large vans, and delivery vehicles reverse out onto the A144.

4.3 Because the application would maintain a comparable employment use, it has not been necessary to formally consult with the ESC Economic Development Team; however, their views will be checked before the Committee meeting.

5. Consultees

Parish/Town Council

Consultee	Date consulted	Date reply received
Bramfield Parish Council	16 March 2020	6 April 2020

Summary of comments:

Under the present circumstances regarding coronavirus, the Parish Council has been unable to meet to discuss this planning application. However Councillors have consulted by email and the general view is that they cannot support this planning application until the following issues are resolved.

Councillors are very aware of the residents' views who live opposite the planning application site who note that:

1) The current working hours are not the ones stated on the application with the lights being regularly on beyond 10pm and early in the morning;

2) The signage on the A144 are unnecessary distractions;

3) There is 'language'/swearing and shouting, which is inappropriate for a rural site with domestic dwellings opposite;

4) Although the planning application seems to indicate that parking considerations are not relevant, it is felt that the parking of cars in the short layby and the deliveries/collections of several vehicles is very unsafe in view that this stretch of road currently has a speed limit of 60mph. It is believed that even with the new 40mph speed limit, it is still very close to the 60mph sign where it is believed that unfortunately the psychology of many drivers will be to start to speed as soon as they can see the derestricted sign whether or not they have passed it, so that the parking issues will remain:

The Councillors are also concerned that oil, petrol, paint and other liquids and scrap may not be appropriately removed from the site for disposal as this is in an agricultural area and not an industrial area.

Councillors believe that if the working hours are those stated in the planning application, the signage on the A144 is removed, the language is moderated, any pollution is disposed of appropriately and customers have parking spaces within the curtilage of the property and not in the lay-by, then councillors will not object to this planning application.

Consultee	Date consulted	Date reply received
SCC Highways Department	16 March 2020	30 March 2020

Summary of comments:

Notice is hereby given that the County Council as Highway Authority make the following comments: The sites new use would greatly increase the number of vehicle movements from the sites access however, the applicant has not submitted any visibility splays.

An intensification of use of a substandard access would be considered detrimental to highway safety, the existing access must have visibility splays of x=2.4m by=215m in each direction, to the nearside edge of the metalled carriageway, with no obstruction over the height of 0.6m and must not encroach 3rd party land.

If the aforementioned cannot be addressed SCC would be forced to object to DC/20/01126/FUL under highway safety grounds (NPPF 108).

Consultee	Date consulted	Date reply received
East Suffolk Environmental Protection	16 March 2020	13 May 2020

Summary of comments:

1. Noise assessment required

A noise assessment will be required at the planning application stage. The applicant may wish to consider the following as part of the assessment:

a) The site layout shall be arranged so as to provide maximum screening of the surrounding residential properties.

In addition, a BS4142 Assessment should be included. Noise from fixed plant or machinery (e.g. heat pumps, compressors, extractor systems, fans, pumps, air conditioning plant, vacuuming equipment or pressure washers) can be annoying and disruptive. This is particularly the case when noise is impulsive or has tonal characteristics. A noise assessment should therefore be submitted to include all proposed plant and machinery and be based on BS4142:2014. A rating level (LAeq) of at least 5dB below the typical background (LA90) should be achieved. Where the rating level cannot be achieved, the noise mitigation measures considered should be explained and the achievable noise level should be identified and justified.

2. Working hours

Hours of working shall be provided by the applicant. These should be fully justified and supported by the conclusions of the BS4142 assessment so as to adequately protect nearby sensitive residential properties.

The working hours should be agreed in writing by the Local Planning Authority. The working hours should be agreed in advance of planning permission being granted.

Consultee	Date consulted	Date reply received
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East Suffolk Environmental Protection	27 January 2021	24 December 2020
<p>Summary of comments:</p> <p><i>1. I have reviewed the acoustic report by Cambridge Acoustics Ltd and have several comments to make. (I note the context here that these premises were already had B2 planning use which could have included noisy equipment and processes.) In summary, I cannot reach the same conclusion that there would be low impact from noise, and in fact there is the potential for a significant adverse impact from noise.</i></p> <p><i>I do agree with the consultants Section 7 recommendations however, and there are measures that could be taken that would I believe reduce adverse (and perhaps significant adverse) impacts from noise to an acceptable situation.</i></p> <p><i>In terms of the acoustic assessment (BS 4142:2014+A1:2019) my comments are as follows:</i></p> <p><i>1. The most sensitive residential receptor is that to the north of the workshop sections of the premises. The background sound levels however were taken close to the A143 road and therefore likely to be elevated compared with levels in the rear garden areas of the nearest dwelling which are further from the road.</i></p> <p><i>2. I consider that a more representative location should have been selected for the background sound level measurements even if that meant stopping work for a day, or parts of the day to allow those measurements. Ambient and background sound levels could/should have been taken on the northern site boundary, or in the intermediate plot of land. Indeed, were it possible to measure to the north, source and background sound levels could have been measured from the same place.</i></p> <p><i>3. In terms of the assessment therefore, there is uncertainty over a representative background sound level which in turn means the assessment outcome is uncertain.</i></p> <p><i>4. The assessment does not clearly set out how the source noise levels have been calculated over distance to the assessment position. It is not possible either to determine what noise reduction/attenuation has been applied for the boundary fence to the north.</i></p> <p><i>5. I don't agree with the distances adopted in the assessment. Assuming the source to be in the centre of the workshop, 11m to the measurement position extends well out into the yard. The assessment then adds an additional 49m to the garden of the residential receptor to the north. This extends much further into the garden than necessary. I consider there are very likely areas of the garden that residents would use and enjoy several metres closer.</i></p> <p><i>6. I think I would accept the acoustic feature corrections added of +6dB.</i></p> <p><i>7. Overall, therefore these uncertainties over typical background sound levels and predicted or measured source levels at the assessment position mean we cannot be sure that a significant adverse impact from noise would not occur.</i></p> <p><i>Having said all this about the technical aspects of the assessment report, I do agree with the recommendations made, and that these could substantially improve the situation. Closing the roller shutter door to the northern elevation would significantly reduce off-site noise levels in that</i></p>		

direction. Relocating those machines/equipment and tasks that generate the highest noise levels away from the door area could be beneficial particularly if they were in a better insulated room/area. Preventing working on a Sunday through a working hours condition would also be recommended.

6. Planning policy

National Planning Policy Framework 2021 (NPPF)

SCLP3.1 - Strategy for Growth (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP3.2 - Settlement Hierarchy (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP4.3 - Expansion and Intensification of Employment Sites (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP4.4 - Protection of Employment Premises (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP4.5 - Economic Development in Rural Areas (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.1 - Sustainable Transport (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.2 - Parking Proposals and Standards (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP10.3 - Environmental Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP12.34 - Strategy for the Rural Areas (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

7. Planning considerations

Planning Policy Background

7.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) sets out that *“if regard is to be had to the development plan for the purpose of any determination to be made under*

the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.” This is reflected in paragraph 12 of the NPPF which affirms the statutory status of the development plan as the starting point for decision-making.

- 7.2 The development plan comprises the East Suffolk Council – Suffolk Coastal Local Plan (“The Local Plan”) and any adopted Neighbourhood Plans. The relevant policies of the Local Plan are listed in the section above and will be considered in the assessment to follow. It is important to also note that NPPF paragraph 11 requires that planning decisions apply a presumption in favour of sustainable development and that means, for decision-taking, approving development proposals that accord with an up-to-date development plan without delay.

Principle of Development

- 7.3 Policy SCLP12.34 of the Local Plan sets out that the spatial strategy for the rural area and seeks to deliver, amongst other things, *“opportunities for employment development alongside the protection of existing employment uses”*.
- 7.4 Policy SCLP4.4 seeks to protect employment premises across the plan area to retain their established B-class uses. Alongside this, policy SCLP4.5 seeks to support proposals that grow and diversify the rural economy where that is compatible with the location. Policy SCLP4.3 permits proposals to expand, alter or make productivity enhancements to existing employment premises subject to certain detailed criteria.
- 7.5 The former use by Monarch Water involved some on-site assembly, but the use was primarily a B8 use being a Storage and Distribution Centre of water softeners by the company. That was an employment use that ceased a few years ago, and the premises was marketed in 2019.
- 7.6 The use of the site for car sales and car servicing, repair, and valeting, is not strictly a B-class use such as B2 (General Industrial) or B8 (Storage and Distribution Centre). It is a mixed use that does not fall within a defined use class and is, therefore, for planning purposes a sui generis use. That being said, the use does provide a source of employment for an industrial activity (car servicing/repairs) along with the employment linked to the car sales element of the use. The intention of the Local Plan spatial strategy and employment policies, when read as a whole, is to retain and support the continued use of existing employment sites, to support the rural economy, and to ensure that changes of use of employment sites are directed toward sequentially preferable uses, and avoid undesirable changes to residential use, amongst other things.
- 7.7 Officers are therefore of the opinion that the change of use is broadly supported by the Local Plan, and that the employment generated is an economic benefit that accords with SCLP4.5.

Residential Amenity and Local Environment Impacts

- 7.8 The key issue with this retrospective application is the impact of the development on the living conditions of local residents, and whether such impact can be made acceptable through conditions on any grant of planning permission.

- 7.9 The main amenity impact arises from hours of operation and the noise and disturbance that is associated with the use, particularly where it is carried out in the evenings, very early mornings, or on Sundays and Bank Holidays. Following consultation with the Environmental Protection Team, it is clear that if planning permission were granted, it would need to include a condition restricting hours of operation. This has been discussed at length with the applicant and their agent, and an agreed position has been reached that a condition could restrict the use to only permit operations between the hours of 08:00 to 17:00 Monday to Saturday; with no operations on Sundays and Bank Holidays. Officers have robustly queried this with the applicant, to seek assurances that it is realistic and viable for the business to only operate at these times. The applicant has confirmed as such and is willing to accept a planning condition to this effect.
- 7.10 Officers in the Environmental Protection Team have reviewed the Noise Assessment/Acoustic Report provided and, although acknowledging some flaws in the assessment, conclude that the suggested mitigation measures would make a significant difference to the noise impacts arising from the use. One of those is, as above, the control of working hours. In addition, a recommendation is that the use of power tools and equipment associated with the servicing and repair of vehicles be confined to within the workshop area, and that the roller door to the loading bay be closed when those tools are being used. This will confine those noises to within the building, whereas the current situation seems to be that the roller door is open throughout the working day, and the noise travel from that is impactful for local residents, particularly those to the north at Willow End. Officers therefore recommend that a planning condition could be applied to require that the roller door to the loading bay is to remain closed and only opened when required for loading of goods/transport of vehicles in-and-out of the workshop area.
- 7.11 The control of hours of operation/working, by condition, will have the most significant impact in ensuring that the use can be carried out in a way that does not harm the living condition of residents at Mill View and Willow End. The additional condition controlling the use of the roller door on the northern side of the building will further help reduce noise impacts.
- 7.12 In terms of general disturbance, it is acknowledged that the activity at the site may be a little noisy or disruptive at times through vehicle movements. Some local feedback has raised concerns regarding the extent of shouting and swearing on site, although officers have no evidence of that; in any case, it is not possible through a planning application to use conditions to control behaviour. Limited to the hours of operation put forward in this application, the general use and associated activity is deemed to be acceptable for what is a long-standing commercial site. There would have been similar impacts arising from the former B8 use, and much of the impact could be obviated by adhering to the hours of operation now agreed to.
- 7.13 In terms of the visual amenity impacts of the development, that is considered in the next section of the report, but again with conditional controls it is felt any impacts in this regard can be mitigated and reduced to an acceptable level.
- 7.14 For the reasons set out, and with the recommended conditions, the use can be made acceptable in amenity terms in accordance with SCLP11.2.

Design, External Appearance and Landscape/Visual Impact

- 7.15 In terms of built form, no building work is proposed or has been undertaken. The building/structures on site are utilitarian and not of any architectural merit, but also not particularly harmful to the wider character of the area. The operator has installed advertisements on the façade of the building, but this is not deemed to cause any harm; previously Monarch Water displayed adverts on the building, and it is an expected appearance for a commercial premises.
- 7.16 The parking of sales vehicles on the forecourt area is quite visible on the approach to the site from the south along the A144. There is a somewhat cluttered appearance to the site due to the extent of vehicle parking. However, it is relevant that the former B8 use likely involved HGV and other vehicle parking in this area, so it is not clear that the current use is significantly more impactful in this regard. However, based on the current appearance of the site and noting the design objectives of SCLP11.1, officers consider that some native hedgerow planting on the southern boundary would be necessary. This planting, once established, would mature to screen the forecourt area from the south and it would just be the main buildings visible beyond that hedgerow. A planning condition would be required to secure the submission of that planting scheme and its timely implementation, should permission be granted.
- 7.17 Officers also raised concerns regarding the proliferation of sales vehicles being parked/displayed extensively across the site and into the grassed area to the south of the forecourt. Following discussion with the applicant and their agent, a compromise position has been reached (and detailed in the revised block plan) where 23 sales vehicles can be parked/displayed in the external areas of the site. The car showroom area of the building allows for another six or seven to be parked/displayed within the building. Of the 23 sales vehicles parked/displayed outside the building, only six would be located on the grassed area to the south. The applicant has advised that this is a sufficient and viable arrangement and has agreed to a planning condition requiring that vehicles be parked/displayed in this manner in accordance with the revised block plan. Officers are comfortable that this will allow for a viable car sales operation at the site without giving rise to an overly cluttered appearance to the eastern part of the site.
- 7.18 With the conditions recommended, the design, external appearance and visual impact of the development would be acceptable in accordance with SCLP11.1.

Highways Safety and Parking Provision

- 7.19 Suffolk County Council Highways Authority commented on the application setting out that the increase in vehicle movements to-and-from the site would require that the applicant provide detailed visibility splays of the vehicle access onto the A144. Detailed visibility splays have not, however, been provided.
- 7.20 It is important to acknowledge though that the site has an existing, established commercial access onto the A144. This access allows for excellent visibility in the southerly direction, where vehicles would be travelling north on the nearside of the highway. Visibility to the

north is not as extensive, but vehicles would be travelling on the far side of the highway when heading south, so this is of less concern.

- 7.21 One of the concerns raised by local residents is regarding vehicle parking linked to the use of the site spilling out onto the local highway network, and also the layby area to the south of the site access. This layby area appears to be used by some of the residents at Mill View, to the east, although it is understood that these properties do not have any ownership of that land, and any reliance of parking there has just happened over time. The Local Planning Authority cannot seek to protect this layby parking for existing residents. However, officers have worked with the applicant and their agent to secure the provision of four (4no.) parking spaces for visitors within the site. These spaces should be secured by planning condition to ensure that they are only used for that purpose and retained as such. This will prevent visitors to the site having to park in the layby to the south of the site access, which is something that appears to happen at the moment.
- 7.22 Having regard to this being an established commercial site, with an established vehicle access with good visibility to the south, officers consider that the change of use would not cause adverse impacts on highways safety. There would not be an unacceptable impact on highways safety, nor would the residual cumulative impacts on the road network be severe. As set out in NPPF paragraph 111, where this is the case there are no highways grounds to refuse permission.

Public Benefits of the Development

- 7.23 The use of the site provides a source of local employment. During the site visit, it was clear that there are several full-time employees on site working both in management and car sales and then servicing, repair, and valeting. When Monarch Water ceased operations at the site, that employment use ended. Therefore, a significant economic benefit of the scheme is that it continues to provide an employment use on site.

Other Matters

- 7.24 The application raises no heritage or ecological considerations. This is an existing commercial site, and involves no sensitive or vulnerable end-uses, therefore no issues in respect of ground contamination or pollution. There are no flood risk or drainage considerations with this scheme.

Planning Conditions and Enforcement Matters

- 7.25 As detailed in this report, there are a number of planning matters that would require appropriate conditions to be fully resolved.
- 7.26 A key condition would be the hours of operation being restricted to between the hours of 08:00 to 17:00 Monday to Saturday, and with no operation/opening on Sundays and Bank Holidays. A second key condition would be for sales vehicles to only be parked for display in those locations clearly set out on the block plan (Drawing No. 82021-PL01); this would ensure that no more than 23 sales vehicles are parked for display across the site, and it would limit that to only the forecourt and a small section of the adjacent grassed area. A third key condition is to secure that the 4no. visitor cars parking spaces on the block plan are retained and only used for that purpose, and not for the display of sales vehicles, or parking

of vehicles to be serviced/repaired. Another key condition would be to require that the loading bay doors on the north side of the building are to be closed and only opened for the purposes of loading and movement of vehicles in-and-out of the workshop areas.

- 7.27 It is not necessary to restrict the use of the site to only car sales and car servicing/repairs, because this is a sui generis use and therefore most other uses would require express planning permission from the Local Planning Authority, in any case.
- 7.28 Officers recommend a standard condition also in terms of the development to be undertaken in accordance with the approved plans. In addition to that, a condition is recommended to secure a scheme of hedgerow/landscape planting on the southern edge of the site, and its timely implementation post-consent. This is necessary to provide some screening of the extensive vehicle parking in the forecourt area of the site, and to mitigate that impact on the character and appearance of the countryside to the south.
- 7.29 The current position is that there is an unauthorised use of the site subject of an open enforcement case but, at this time, no enforcement action has been taken. That remains an option open to the Council as the use has taken place continuously for less than two years, and it would need to be in continuous use and not subject of enforcement notice for a minimum of four years to become lawful through the passage of time. It therefore remains an option to the Council to refuse this application and serve an Enforcement Notice to cease the use of the site.
- 7.30 However, the Government's Planning Practice Guidance sets out, amongst other things, that formal enforcement action might not be appropriate where the Council consider that an application is the appropriate way to regularise the situation, for example, where planning conditions may need to be imposed.
- 7.31 This reflects officer's opinion of the current situation – that is, that the unauthorised, uncontrolled use of the site is unacceptable in terms of residential amenity, particularly where appropriate hours of operation are not adhered to. However, a grant of planning permission would allow for a series of planning conditions to control the use of the site, and these conditions can be enforced should there be a breach. Officers are of the view that with conditions applied, the use of the site would be acceptable in planning terms and planning permission can be granted for that use. The Government's Planning Practice Guidance is also clear that planning conditions should be used appropriately to make development acceptable in planning terms. Paragraph 55 of the NPPF also sets out that: *"Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations."* Indeed, that would be the case here, where conditions can secure an acceptable planning outcome.
- 7.32 Where a condition on a planning permission has not been complied with, the Council can serve a Breach of Condition Notice (BCN). This involves serving a Notice which sets out a period for compliance, and if the "person responsible" has not ensured full compliance with the conditions and any specified steps, then they are in breach of the Notice and guilty of an offence under section 187A(8) and (9) of the Town and Country Planning Act 1990. Summary prosecution can be brought in the Magistrates' Court for the offence of contravening a breach of condition notice. This is a strong enforcement position, because there is no right of appeal to the Secretary of State against a breach of condition notice.

8. Conclusion

- 8.1 Whilst acknowledging that the retrospective nature of the application is unfortunate, that cannot be considered when determining this application. The application must be considered on merit, without prejudice to its retrospective nature.
- 8.2 With appropriate planning conditions as set out in this report, the use of the site can be properly controlled and managed so as to be acceptable in planning terms. This would allow the continued operation of the site and the employment benefits that the use delivers to continue. With the recommended conditions applied, officers consider that the scheme would accord with the Development Plan. On that basis, the recommendation is to approve with the conditions summarised in the recommendation section of this report. The precise wording of those conditions will be detailed in the update sheet published 24-hours before the meeting; this is to enable officers to refine the conditions wording and secure the applicant's agreement to those precise conditions, prior to the meeting.

9. Recommendation

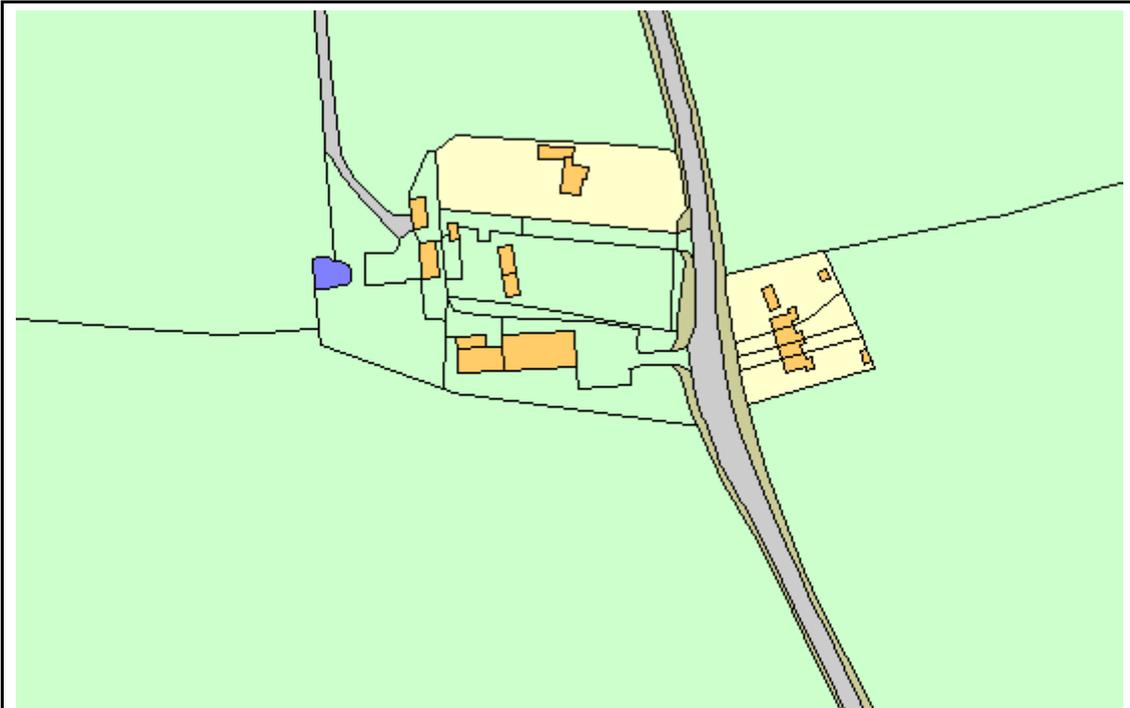
9.1 Approve with conditions including those summarised below:

1. Development to be in accordance with the approved plans/details.
2. Hours of working/operation and opening to the public shall not take place outside the hours of 08:00 to 17:00 on Mondays to Saturdays. No working/operation or opening to the public on Sundays or Bank Holidays.
3. The 4no. visitor car parking spaces shall be laid out, marked appropriately and made available within 3 months and to be used only for visitors to the site, and not used for the parking/display of sales vehicles, or for the parking of vehicles subject of servicing, repair, or valeting. The visitor spaces to be retained solely for the approved purpose.
4. Only 23 sales vehicles shall be parked/displayed outside of the building and only in those areas denoted on the block plan.
5. The roller door to the loading bay on the northern side of the building shall remain closed at all times and only opened to allow for transport of goods and/or vehicles into the workshop areas.
6. Within three months of the date of this permission, a landscaping scheme to detail hedgerow planting on the southern edge of the site shall be submitted to and approved by the LPA; the planting scheme to then be implemented at the first available planting season.

10. Background Papers

See application reference DC/20/1126/FUL on [Public Access](#)

Map



DO NOT SCALE SLA100019684

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