

REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	5 th December 2013
Application Number	13/04007/FUL
Site Address	Unit 4 The Old Dairy, Lower Fyfield, Near Marlborough, Wiltshire SN8 1PY
Proposal	Change of Use to include a Car Sales Business
Applicant	Mr Robert Mountis
Town/Parish Council	FYFIELD & WEST OVERTON
Grid Ref	414885 168501
Type of application	Full Planning
Case Officer	Ruaridh O'Donoghue

Reason for the application being considered by Committee

This application is brought to committee at the request of the division member, Councillor Milton, on the following grounds:

- Environmental or Highways Impact
- Car Parking

1. Purpose of Report

To consider the recommendation that the application be approved planning permission.

2. Report Summary

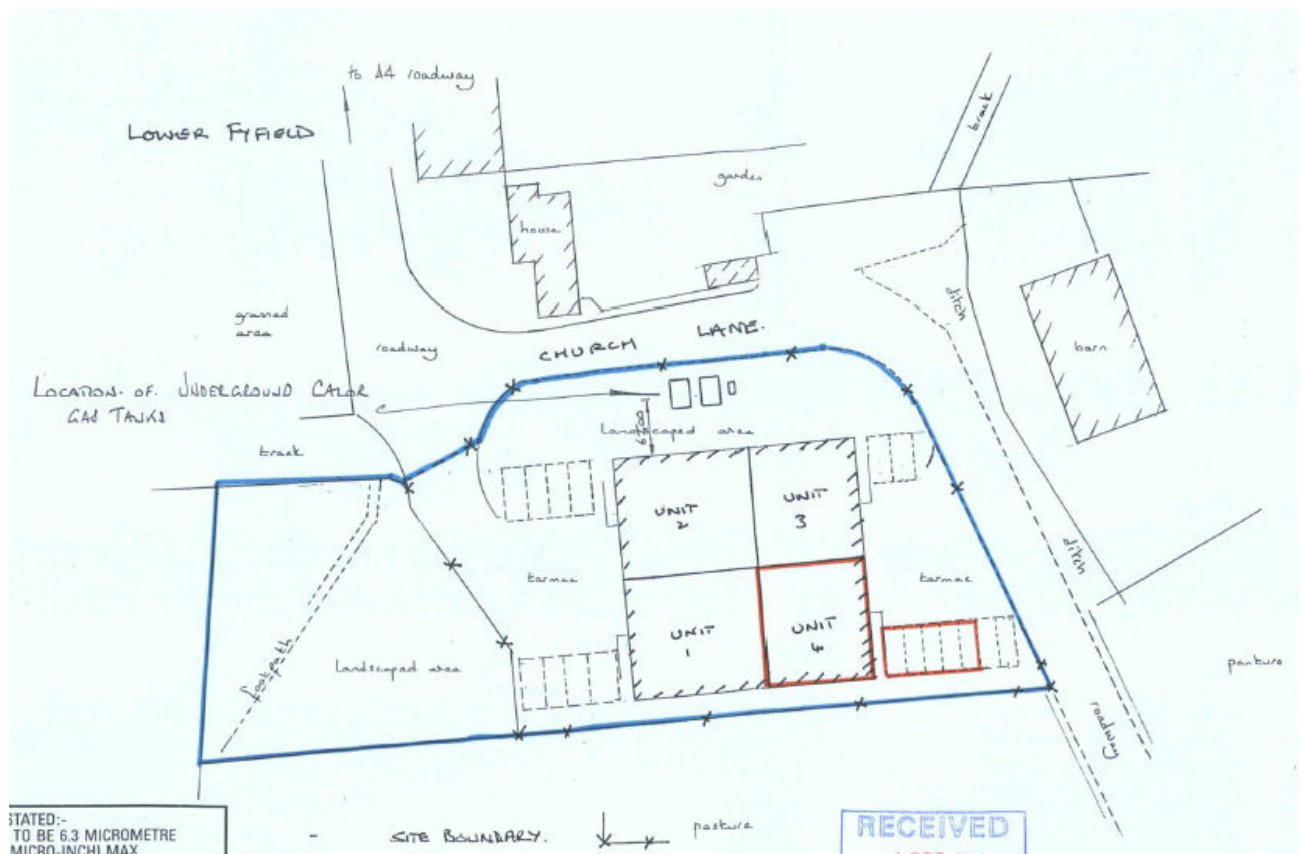
The key issues for consideration are as follows:

- Whether the change of use is acceptable in principle
- Whether the change of use has an adverse impact on highway safety
- Whether the change of use has an adverse impact on neighbour amenity

3. Site Description

This application relates to Unit No. 4 at The Old Dairy in Lower Fyfield, near Marlborough. The unit comprises part of a former farm complex in respect of which planning permission was granted under reference K/51093/F for B1 and B8 uses. The site is accessed off the A4 and via the settlement's only road, which terminates shortly after reaching the units. To the north of The Old Dairy lies existing housing, to the east lies a small farm building and to the south and west lies open agricultural fields.

The application site lies within the main built-up part of Lower Fyfield and the North Wessex Downs Area of Outstanding Natural Beauty (AONB).



4. Planning History

K/40567 – planning permission was refused in 2001 for the demolition of redundant farm buildings and the change of use of the remaining dairy buildings to B1/B8 uses with associated parking and landscaping.

K/51093/F – planning permission was granted in 2005 for the demolition of redundant farm buildings and the conversion and change of use of the remaining dairy buildings to classes B1 (business) or B8 (storage & distribution), with associated parking and landscaping.

5. The Proposal

This is a retrospective application for the change of use of Unit 4 to include a car sales business. The building is used partially for the storage of motor vehicles, with the remainder used as an office. The land outlined in red on the submitted block plan is used for the display of vehicles and visitor parking.

During the course of the application, the description of development has been amended to remove the word 'internet'. This avoids any subjectivity over what constitutes an internet sale, thus allowing easier control over the use should planning enforcement issues arise.

6. Planning Policy

Kennet Local Plan 2011 – Policies PD1 (general development principles) and ED12 (protecting employment and tourism uses within villages).

Wiltshire Core Strategy Pre-Submission Document, February 2012 – Core Policies 35 (existing employment sites), 57 (ensuring high quality design and place shaping), 61 (transport and development) and 64 (demand management).

In due course the Wiltshire Core Strategy (WCS) will replace the Kennet Local Plan as the statutory local plan for the East Wiltshire area. The Wiltshire Core Strategy Pre-Submission Document went out to public consultation in February 2012 and the WCS was presented for examination in July 2012. The inspector's report is currently awaited and the WCS is not expected to be adopted until summer 2014. The policies in the WCS do not, therefore, yet carry full weight when making planning decisions.

Central government policy contained in the National Planning Policy Framework (NPPF) 2012 is also of relevance.

7. Consultations

Fyfield and West Overton Parish Council - the proposed use is wholly inappropriate for the location. Despite the (unclear) claim by the applicant that this is an 'internet' business it is inherent in it that there will be a significant increase in traffic along a narrow lane which is ill-suited to it. This has been borne out by the way in which the site has in fact been used since this use started earlier this year. Both the volume of traffic, and the unfamiliarity of the drivers with the nature of the lane, have a significant adverse effect both on traffic safety issues and on the local amenity. We should also say that we struggle to match the anticipated number of vehicle movements in the design & access statement with residents' experience of the real-life position over the last few months. At present the figures in the statement appear adequate only to cover the applicant's own journeys to and from the site, without any visits from people viewing or test-driving cars, or deliveries of those cars. Wiltshire Council may also wish to explore with the applicant the number of people likely to be employed or working at the site. The design and access statement implies that it is only the business owner, whereas we understand from residents that there may have been up to three different people working there at different times.

Wiltshire Council Highways - a B1/B8 use has the potential to generate significant traffic flows, including large HGVs. From the information supplied the proposed use generates quite low numbers of visitors, and even if they all arrived on the same day, it is not considered that this would cause undue highway problems. Overall, it is considered that this use generates fewer traffic movements than could a B1/B8 use which would not even require planning permission. In view of this, there is no highway objection to the application.

8. Publicity

The application has been advertised by way of a site notice and consultations with the neighbours and the parish council.

Fourteen letters of objection have been received in respect of the application. The concerns can be summarised as follows:

- The danger of setting a precedent for further changes of use
- The highway network in the village is not adequate to support this type of use

- This use would bring with it an increased volume of traffic
- The use would create a danger impact to the safety of the highway where kids play, horses are ridden and pedestrians walk etc.
- The change of use will not protect the village amenities
- Noise generated from the use is harmful e.g. engines left running to charge car batteries.
- Not solely an internet business and even so, people will visit the site to view the cars etc.
- Weekend working goes against the terms of the original permission
- There are industrial units within the area more suited to this type of business
- Access from the A4 into the village is poor and dangerous

One letter of support has been received in respect of the application from the landlord of the Old Dairy.

In summary, the letter outlines that this is an appropriate use to operate from said unit.

9. Planning Considerations

Principle of the Change of Use

The units at the Old Dairy are currently permitted for B1/B8 use. The 4 units as a whole exceed 0.1 hectares in area and as such Policy ED12 of the Local Plan is applicable. In summary, this policy seeks to retain, wherever possible, employment within the B Classes. Strictly speaking the change of use element is a sui generis use which is an obvious deviation away from a B Class use. However, the following should be taken into consideration. Unit 4 represents only a small part of the overall employment space at the site. In addition, the development is for a mixed use to include a sui generis use. Consequently, an element of B Class use is retained. Furthermore, the draft Wiltshire Core Strategy (dWCS) affords no protection to this site under Core Policy 35. The status of the dWCS is such that the policies in it should be afforded some, albeit not full, weight. Having regard to this, it is considered that the change of use to include a sui generis car sales use is acceptable in principle.

Impact on Highway Safety

The existing authorised use on the site is for B1 and B8 purposes, with the latter covering storage and distribution. This type of use has the potential to generate a significant amount of traffic, with no control over numbers and size of vehicles. Currently, there are no restrictive conditions in respect of the units at The Old Dairy are controlling traffic flows into and out of those units. Consequently, the unit could be occupied by a business that generates a significant amount of traffic flow through the village ranging from cars to HGV's. The level of vehicle movements could well exceed those associated with the car sales business currently operating from the site. As such, the highway safety impact of this use is likely to be less than the potential authorised B1/B8 uses that could operate from the premises without the need for planning permission. For these reasons, the highway authority has raised no objections to the application.

It is noted that a considerable number of objections have been received from neighbours and the Parish Council with regards to the unsuitability of the highway for this type of use. Whilst these objections are acknowledged, for the reasons set out above, it is considered that they would not justify a refusal of planning permission as there is an existing authorised use that has the potential to generate more traffic and potentially, of a larger scale i.e. HGV's.

Impact on Neighbour Amenity

It is considered that a car sales unit operating within the terms of the original permission for the site (K/51093/F) would not give rise to any neighbour amenity issues as there are conditions restricting, inter alia, the hours of operation and external lighting. It is also considered that the noise and disturbance arising from the current use is no greater than what could potentially result from the authorised B1/B8 uses. Although it has been highlighted that the unit operator regularly flouts the terms of the original permission (e.g. working hours), thus causing disturbance to neighbours, this is not a reason in itself to refuse planning permission. The conditions attached to K/51093/F to protect neighbour amenity remain valid today and can therefore be carried across to any planning permission that is granted. Any breach of these conditions can be regulated by the Council's Enforcement Team.

10. Conclusion

The change of use to include car sales at Unit 4 of The Old Dairy is considered to be acceptable in terms of its impact on highway safety and neighbour amenity. Furthermore, although The Old Dairy will see the loss of an element of B Class use, this would not be to a significant degree. In any event, with the dWCS affording no protection to this site it would be unreasonable to refuse the application on the ground that the principle of the change of use is unacceptable. It is therefore recommended that the application is approved subject to conditions, notably those pertaining to the original permission on the site (K/51093/F) which are intended to protect neighbour amenity.

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No loudspeakers, public address system, or other amplified sound equipment shall be used on the site which would be audible outside the building.

REASON: In order to protect the amenities of nearby residential properties.

- 3 The use hereby permitted shall only take place between the hours of 0700 and 2000 from Mondays to Fridays (inclusive) and between 0800 and 2000 on Saturdays. The use shall not take place at any other time or on Bank Holidays. Deliveries shall not be taken or despatched from the site outside the above hours.

REASON: To protect the amenities of this primarily residential area.

- 4 No external lighting shall be installed anywhere on the site unless otherwise agreed in writing by the local planning authority. Any approved lighting shall not be used outside normal working hours except as security lights. All lighting within the building shall be

turned off within 30 minutes of the end of the working day.

REASON: To prevent undue light spillage in this remote rural area.

- 5 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application Form

Design and Access Statement

stamped received on 10 September 2013

1:1250 Location Plan

1:500 Site Plan (Drawing No. 611)

stamped received: on 1 October 2013

REASON: For the avoidance of doubt and in the interests of proper planning.