

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	23 May 2017
Application Number	16/08756/FUL
Site Address	Springfield Farm, Kington Lane, Stanton St Quintin, Chippenham, Wiltshire, SN14 6DG
Proposal	Change of use of building and land to Class B8 Use. Construction of new vehicular access.
Applicant	CD Fencing
Town/Parish Council	Kington St. Michael
Electoral Division	Kington – Cllr H. Greenman
Grid Ref	390821 179113
Type of application	Full Planning
Case Officer	Mark Staincliffe

Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Howard Greenman who would like the Committee to consider the impact of the proposal on the local area as the proposal will result in a very significant increase in volume of traffic, times of usage and number of vehicles, by both car and HGVs.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to recommend that planning permission be **GRANTED**.

2. Report Summary

The key issues in considering the application are as follows:

- Principle of development.
- Impact on character and appearance of the area.
- Impact on the residential amenities of local residents
- Impact on the local highway network

Kington St Michael Parish Council & Stanton St. Quintin Parish Council both object to the proposed development. 30 letters of objection and 0 letters of support have been received.

3. Site Description

The application site is located within open countryside beyond the settlement framework boundaries of both Stanton St. Quinton and Kington St. Michael but in close proximity to the M4. The site is also located within 250m of 2 listed buildings- Upper Swinley Farmhouse & The Barn at Upper Swinley Farm, both are Grade II listed.

In 1991 planning permission was granted for the change of use of redundant buildings to B8 use. This planning permission has subsequently been superseded by Certificates of Lawfulness granted in 2007 & 2008 for formation of hardstanding and use of land and buildings for the storage of commercial motor vehicle salvage.

4. Planning History

- N/91/00315/FUL Change of use of redundant farm buildings to B8 use (storage)
GRANTED
- N/07/00221/CLE Certificate of Lawfulness for Use of Land and Buildings for Storage of Commercial Motor Salvage, Erection of Fencing and Bunding, Extension of Hardstanding- **GRANTED**
- N/07/00220/S73A Retrospective Application for Erection of Three Security Cameras and Supporting Masts- **GRANTED**
- N/08/00637/CLE Application for Certificate of Lawfulness for Formation of Hardstanding and Use of Land for Storage of Commercial Motor Vehicle Salvage-
GRANTED

5. The Proposal

Change of use of land and buildings at Springfield Farm, Kington Lane, Stanton St Quintin from a use for the storage of commercial motor salvage to use as a fencing contractors premises (B8) & the construction of a new access.

There will be lorries parked to the rear of the building and these will leave the site as and when required to work on various projects, often returning several days later, depending upon how far away they are needed. Storage of fencing equipment and machinery will take place within the main building whilst vehicles and some materials will be kept outside on the existing hard surfaces. Employees engaged in contracts will come to the site, load and collect their vehicles and then return to the site when the job has been completed. The exception to this is when there is an emergency, but lorries are always pre-loaded.

6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:

- Core Policy 1- Settlement Strategy
 - Core Policy 2- Delivery Strategy
 - Core Policy 10- Spatial Strategy: Chippenham Community Area
 - Core Policy 35- Existing Employment Land
 - Core Policy 41- Sustainable Construction and Low Carbon Construction
 - Core Policy 48- Supporting Rural Life
 - Core Policy 51- Landscape
 - Core Policy 57- Ensuring high quality design and place shaping
 - Core Policy 58- Ensuring the Conservation of the Historic Environment
 - Core Policy 61- Transport and Development
 - Core Policy 62- Development Impacts on the Transport Network
 - Core Policy 63- Transport Strategies
 - Core Policy 64- Demand Management
- Appendix D
Appendix E
Appendix G

National Planning Policy Framework 2012:

Achieving sustainable development – Core Planning Principles (Paragraphs 7 14 & 17)

- Chapter 7- Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)
Chapter 8- Promoting healthy communities (Paragraph 75)
Chapter 11- Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 & 123)
Chapter 12- Conserving and enhancing the historic environment (Paragraphs 126, 128, 129, 132, 133 and 139)

7. Summary of consultation responses

Kington St. Michael Parish Council- Object. Whilst the amended plans resolve the amenity issues associated with the adjoining properties no improvements have been carried out for those situated further away.

The amended plans confirm the necessity to properly mark out and use the site in accordance with the submitted plans.

The Council retain their view that the suggestion made by the applicant to persuade traffic to arrive from the North through a Traffic Management Plan is not enforceable.

Stanton St. Quintin Parish Council- Object. The Stanton St Quintin Parish Council is very concerned about the environmental impact both on neighbouring houses and on narrow twisting roads, so narrow that there is no room for a white line. The road structure is completely inadequate and cannot support HGV traffic day and night.

Highways- Additional information has been submitted for the site and this information including the transport routing for the proposal to Springfield Farm overcomes the original concerns raised. The submitted information relating to storage and transport information has been demonstrated, so long as the transport plan is followed to prevent HGVs from using the road network through Kington St Michael no highway objection is raised as the expected use would not have a severe impact on the highway. Therefore subject to conditions being attached to any permission no objection is raised.

Public Protection- . The proposed use would involve access at all times of the day and night although the supporting statement suggests most activity will be early evening and the mornings. This has since been further clarified by the provision of a noise report.

Previously concerns were expressed relating to noise disturbance from vehicle movements, loading and unloading, etc. These have now been fully addressed through the BS4142:2014 and Noise Assessment and Mitigation Design Study. Provided the attenuation measures suggested are to be incorporated into the Approval, no objection is raised.

8. Publicity

The application was advertised by neighbour letter and site notice.

The application has generated 30 letters of objection and 0 letter of support. A summary of the comments is set out below:

- Roads are too narrow & not suitable for HGV traffic
- No traffic should be allowed to exit through Kington St Michael
- Initial vehicle movements from the site were high but this has now reduced
- Yard rarely used on a Saturday
- New access will not reduce disturbance to adjacent properties
- Removal of vegetation would expose the site to long distance views
- There will be noise disturbance to local residents and adjacent properties

- Road is unlit, the development would be a danger to pedestrians
- Use of the road by HGVs would cause accidents and further congestion
- Proposal in conflict with Core Policy 48
- Detrimental impact on the safety of children
- Development will have an adverse impact on privacy for local residents
- Conditions imposed on the B8 permission should apply to this permission
- Removal of hours of operation is unacceptable
- This will have an adverse impact on the character and appearance of the area
- Development should be located in Chippenham
- Pollution will have an adverse impact on the health of local residents
- The current permission does not allow use of the site 24 hours a day. Submitted information is incorrect.

9. Planning Considerations

Principle of Development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Chippenham Area. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight.

Impact on Heritage Assets

There has been no local concern with regard to the impact on the setting of listed buildings but there are two listed buildings within 250m of the site. It is therefore important to consider the impact on this development on their setting.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Considerable weight must therefore be given to the preservation of the listed building, including its setting.

The House of Lords in *South Lakeland District Council v Secretary of State for the Environment* case decided that the “statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.

When taking into consideration the existing site levels, distance between the buildings and existing screening it is considered that the proposed development would not result in harm to the setting of the listed buildings.

For the purposes of determining the application Core Policy 58 is relevant and states:

Development should protect, conserve and where possible enhance the historic environment.

Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance:

The wording of core policy 58 and the supporting text to the policy is quite clear that if harm is identified it is in conflict with the policy. As the proposal conserves the setting of the heritage assets the development is in accordance with CP58 and the NPPF.

Lawful Use of the Site

Numerous letters of objection have questioned the facts contained within the applicant's supporting statement including the assertion that the site can currently be used without restriction 24 hours a day. As a starting point it is necessary to confirm the fallback position for the site as this will be a material consideration in the determination of this application.

Applications N/07/00221/CLE & N/08/00637/CLE were Lawful Development Certificates (LDC) and the approval of these established the lawful use of the site. The only restraints imposed by an LDC are a) the land to which it relates, and b) the description of the development found to be lawful.

S.191 of the 1990 Act specifically requires the citation of a Use Class where appropriate of any development deemed lawful. This means that where an application is made in respect of the certification of a development already carried out, the citation in the certificate may not always be in terms of the generality of the use, but will specify exactly what use is being lawfully carried on. Thus a certificate issued for, a haulage yard could well indicate the number of vehicles to be used and the hours of operation. These are not conditions as applied conventionally to a planning permission, rather they are a benchmark from which any future use may be examined to see if there has been a material change.

In *Hillingdon LBC v Secretary of State for CLG 11/01/2008* the court held that the appropriate level of detail in a certificate of lawful use would necessarily vary from case to case and the degree of particularisation would be a matter of judgment for the decision-maker based on the evidence. This finding was in response to the claim by a local authority that an inspector had erred in law in describing the lawful use of the site as she had failed to define what level of storage had been established or the precise location of the uses within the site and therefore the certificate failed to define with sufficient particularity the use that was found to have existed at the time the certificate was granted.

The case law dictates that once a local authority is satisfied that the use described in the application is lawful, it has a statutory duty to issue a certificate to that effect under s.191(4) of the Act and s.191(5)(b). These contain the legal duty to describe the use found to be lawful, in this case the decision notices described the use as the following:

N/07/00221/CLE- Certificate of Lawfulness for Use of Land and Buildings for Storage of Commercial Motor Salvage, Erection of Fencing and Bunding, Extension of Hardstanding

N/08/00637/CLE- Application for Certificate of Lawfulness for Formation of Hardstanding and Use of Land for Storage of Commercial Motor Vehicle Salvage

This is the established use for the site and as there are no limitations relating to the hours and days of operation, traffic routes or number of vehicles permitted to be stored on site there is no such restriction under planning law for this site.

The fallback position is a material consideration which must be given significant weight in the determination of this application.

Core Policy 35

The supporting text accompanying Core Policy 35 confirms that a strategic objective of the Core Strategy is to deliver a thriving economy which provides a range of job opportunities in Wiltshire. Though the policy looks to locate new employment within principle settlements the accompanying text confirms the importance and need to retain existing employment sites outside of Principle Settlements.

Taking into consideration the fallback position of the site and current use it is considered that the application for a change of use and new access accords with Core Policy 35 and the wider aspirations of the Core Strategy as outlined in CP1 and CP2 of the core strategy.

Copies of these certificates are attached at appendix 1.

Core Policy 48

Representations received by the Council make reference to Core Policy 48 and are of the view that the proposed development is in conflict with this policy.

The policy relates to Supporting rural life and the policy is split into 5 sub sections:

- Dwellings required to meet the employment needs of rural areas
- Improving access to services and improving infrastructure
- Conversion and re-use of rural buildings
- Community Ownership
- New Shops

As there is already an established use for the building the policy isn't considered to be relevant to the determination of the application. However, it could be argued that the proposal is a conversion and reuse of a rural building. This part of the policy says that proposals to convert and reuse of buildings for employment uses will be supported where it satisfies a number of criteria. These concern the structural condition of the building, the use not detracting from the character or appearance of the landscape and not being detrimental to the amenities of residential areas.

These matters are addressed in more detail within this report and it is considered that the proposal is not in conflict with Core Policy 48.

New Access & Highway Matters

The Council's highway officer is satisfied that the new access is safe, subject to conditions and is therefore in accordance with both national and local planning policies. This includes policies CP61, CP62 and CP63 of the Core Strategy as well as the NPPF.

However, many local residents have expressed concerns regarding noise disturbance from traffic coming to and leaving the site. The application has been accompanied by a traffic management plan and this confirms that traffic vehicles will not access the site via Kington St. Michael and will use an approved route and this will be controlled by Condition. This approach has been endorsed by the Council's highway officer.

An important material factor in the determination of the application is the lawful use of the site. As set out within the report the site benefits from an unrestricted use for the storage of commercial motor vehicle salvage, this includes the hours of operation and the route that vehicles travelled to and from the site. Taking into consider the proposed use, including the

operation of the site and the lawful use of the site it is considered that the proposal will be materially better and less harmful to highway safety and the amenity of local residents than the existing lawful use.

Impact on the Character and Appearance of the Area

As set out above there is an existing lawful use for this site and the building is currently in situ. It is accepted that the new access will see the removal of a small group of non native trees and will expose part of the building to the immediate street scene. Some harm will be caused but this will be limited to short distance views and will be temporary. Any approval will be subject to the submission and implementation of a landscaping scheme. This landscaping will mitigate any harm which will be temporary

Taking into consideration the existing use of the site and the need for the submission and implementation of a landscaping scheme it is considered that the proposed development will have a neutral impact on the character and appearance of the area and is not in conflict with Core Policy 51 & 57 of the Wiltshire Core Strategy.

Hours of operation & Impact on residential amenities

Due to the nature of the business 24 hour access is required. However, the noise report submitted with the scheme assesses this impact on the adjoining residential properties. Taking into consideration the conclusions reached in the report and the fallback position (the site can lawfully operate 24 hours a day without restriction) there is no objection to the proposal subject to conditions. It is considered that the proposal accords with Core Policy 57.

Initial concerns were raised by the Council's public protection officer and further information was requested and duly submitted by the applicant. This information has now been considered and the issues highlighted by officers have been clarified by the provision of a noise report.

To demonstrate that the proposed operation does not have an adverse impact on the amenities of adjacent properties the applicant commissioned a noise assessment mitigation survey. This concluded that various works would be required, including the installation of double sided reflective sound screen and absorbent sound screens. Subject to the installation of these no objection is raised. The installation and maintenance of these can be controlled by condition.

All concerns have now been fully addressed through the BS4142:2014 and Noise Assessment and Mitigation Design Study. Provided the attenuation measures suggested are to be incorporated and controlled by condition it is concluded that the development will not have a significant adverse impact on the residential amenities of adjoining properties in terms of loss of sunlight daylight, noise disturbance or privacy. Taking into consideration all material considerations it is considered that the proposal, subject to conditions will not be a conflict with CP57 and the NPPF and can be supported.

Conclusion

It can be seen from the analysis in the body of the report that the site benefits from a lawful use for storage of commercial motor vehicle salvage and the land in question is therefore considered to be a brownfield site. Furthermore, there is no restriction in relation to the hours of operation and days the use can currently operate. With the controls now being put in place through the approval of this application it is considered that the residential amenities of local residents will be better than the operation that could take place on site without formal consent from the Council.

The initial harm identified by officers can be overcome through mitigation and is therefore policy compliant. Core Policy 35 supports development such as this and there are no material or policy reasons why the development should not be permitted subject to conditions.

The development is considered to accord with both local and national planning policies.

RECOMMENDATION

GRANT planning permission, subject to conditions listed below:

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

TMP/101/030/001 REV P0 Received 07 March 2017

Traffic Management and Yard Operations Plan for Springfield Farm Received 07 March 2017

CDF/PL/006 REV P0 Received 07 March 2017

CDF/PL/007 REV P0 Received 07 March 2017

DOUBLE SIDED REFLECTIVE SOUND SCREEN FITTED TO TIMBER POSTS
Received 27/02/2017

ABSORBENT SOUND SCREEN FITTED INTO STEEL POSTS Received 27/02/2017

NOISE ASSESSMENT & MITIGATION DESIGN STUDY Received 27/02/2017

FIG 3 Received 27/02/2017

LPC 4023.16.01 Received 08 September 2017

Site Location Plan Received 08 September 2017

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

- 3 No materials, goods, plants, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item, other than the vehicles used for the use on site shall be placed, stacked, deposited or stored above a height of 3 metres above the existing ground level outside any building on the site.

REASON: In the interests of the appearance of the site and the amenities of adjoining residential properties.

- 4 No part of the development shall be brought into use, until the Noise Mitigation Scheme has been carried out in accordance with the details specified in the submitted Noise Assessment & Mitigation Design Study dated 17 February 2017 and installed in the locations shown on plan Figure 3 submitted as part of the planning application.. The approved attenuation works shall be maintained in accordance with the approved details at all times thereafter.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 5 Any gates shall be set back from the edge of the carriageway to allow vehicles to exit the carriageway while the gate is in operation.

REASON: In the interests of highway safety.

- 6 No part of the development shall be occupied until the parking spaces together with the access thereto, have been provided in accordance with the approved plans.

REASON: In the interests of highway safety and the amenity of future occupants.

- 7 The development hereby approved shall be carried out in accordance with the details contained within the submitted Traffic Management and Yard Operations Plan dated 16/01/2017.

Reason: In the interest of highway safety and to protect the residential amenities of local residents

- 8 Traffic for all deliveries and vehicles above 3.5 tonnes shall only visit & leave the site by the route shown on plan number TMP/101/030/001 REV P0.

Reason: In the interest of highway safety and to protect the residential amenities of

local residents

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

- 10 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

- 11 No development shall commence on site until a scheme of soft landscaping has been submitted to and approved in writing by the Local Planning Authority.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission.

- 12 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 13 No sound-amplifying equipment, loudspeaker, or public address system shall be installed/operated or music played within the premises hereby approved or its

curtilage.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

14 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

15 INFORMATIVE TO APPLICANT:

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

16 INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

17 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.