

Delegated Report

Planning Ref: 23/00918/FUL

Applicant: Mr Matthew Adcock

Ward: Burbage St Catherines & Lash Hill



Hinckley & Bosworth
Borough Council

Site: Unit 3 Hunts Building Burbage Road Burbage

Proposal: Change of use of Unit 3 from B2 (Light Industry) to second-hand car dealership (Sui Generis)

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

2.1. This planning application seeks full planning permission for the change of use of a Use Class B2 (General Industrial) commercial unit to a second-hand car dealership (Sui Generis) at Unit 3, Hunts Building, Burbage Road, Burbage. No internal or external works or alterations are proposed alongside this change of use.

2.2. The change of use involves the employment of three full-time and one part-time members of staff.

3. Description of the Site and the Surrounding Area

3.1. The 445.93sqm application site is located within an established employment site to the north of, but within the identified settlement boundary of, Burbage. The employment site includes other commercial businesses such as a distribution service, and engineering company, an upholstery centre, and Burbage Business Centre, which includes a gym, a dance school, and a gymnastics club. The application site comprises of a single storey industrial building that contains three separate commercial units. Unit 3 that is subject to the change of use within the application site was vacant between 31 July 2023 and 30 September 2023, and the second-hand dealership sui generis use began on 01 October 2023. Prior to 31 July 2023, the unit was utilised by a Use Class B2 commercial use.

3.2. The application site and the employment site are accessed via a private road from the south of Burbage Road, which is an adopted and classified 'B' road that is subject to a 30mph speed limit.

3.3. The north and northwest of the site is bounded by an existing rail line, but beyond this is a mixture of residential and commercial properties within Hinckley. To the northeast, east, and south of the application site is further residential properties within Burbage. To the southwest of the site is an identified Green Corridor within the Burbage Neighbourhood Plan (BNP) (2021).

4. Relevant Planning History

4.1 N/A.

5. Publicity

5.1 The application has been publicised by sending out letters to local residents.

5.2 One member of the public responded to the application, but did not support, nor object to the application. However, the member of the public has expressed

concerns regarding the loss of the hedge to the south-eastern boundary of the application site, potential noise pollution concerns, and the storage of waste materials based on a planning permission from 1963.

The Planning Officer notes that the scheme does not involve any alterations to the site boundaries of the existing employment site, and the assessment of noise pollution and the storage of waste is assessed via the Council's statutory Pollution and Waste consultees, and further discussed within this report. A condition is attached regarding the hours of any ancillary car repair.

5.3 No responses have been received.

6. Consultation

6.1 There have been no objections from the following consultants:

- Burbage Parish Council
- Hinckley & Bosworth Borough Council (HBBC)'s Environmental Services' Pollution Officer
- Leicestershire County Council (LCC)'s Ecology Unit
- Local Highway Authority (LHA) (subject to conditions)

6.2 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 4: Development in Burbage

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Burbage Neighbourhood Plan 2015 – 2026 (BNP) (2021):

- Policy 3: Business and Retail

7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, and that the NPPF is a material planning consideration in planning decisions.
- 8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the Development Plan should be approved unless other material considerations indicate otherwise.
- 8.4 Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.7 Policy 4 of the adopted Core Strategy states that the Council will ensure that there is a range of employment opportunities within Burbage and in close proximity to Hinckley.
- 8.8 Paragraph 17.8 of the Burbage Neighbourhood Plan (BNP) (2021) states that the Neighbourhood Plan will support applications generating new employment opportunities which provide adequate parking for vehicles and cycles.
- 8.9 The development is within the identified settlement boundary, and given the above, the proposal is considered to be acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.10 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 8.11 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.12 The development proposes no external nor internal works or alterations. Therefore, the scheme is unlikely to have an impact on the character of the surrounding area.
- 8.13 Furthermore, the proposal replaces an existing commercial use with another commercial business use within an existing employment site. Although the new use of the application site is a Sui Generis use in comparison to a use falling within Use Class B, this is not considered to result in any significant adverse harm to the character of the surrounding area.
- 8.14 Therefore, the proposal is considered to respect the character of the surrounding area in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.15 Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.16 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.17 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.18 No external nor internal works or alterations are proposed within this application, and therefore the development is considered to result in any increased overbearing or loss of privacy impacts to neighbouring residential amenity. In addition, the scheme replaces an existing industrial commercial use with a second-hand car dealership. A condition is attached through preventing ancillary car repair taking place in the evening and early mornings and on Sundays and Bank Holidays.
- 8.19 In light of the above, and the lack of objection from the Council's Pollution Officer, the proposed use is not considered to result in any significant adverse impacts to the residential amenity of neighbouring dwellings in comparison to the existing use within an existing employment site in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.20 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 8.21 Section 9 of the NPPF promotes sustainable transport. Paragraph 124(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, *“The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.”*
- 8.22 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.23 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.24 The Applicant’s Design & Access Statement explains that the new Tenant is expanding their existing business, which is currently located within the Sapcote Road Industrial Estate. The cars are prepared mostly off site and only final polishing, detailing work and sales are undertaken at the application site. The Applicant suggests that the new use reduces the traffic to and from the site because many potential customers now view the cars online before coming to have a detailed viewing or test drive. Cars are individually delivered to the site from the Tenant’s preparation centre on the Sapcote Road Industrial Estate so the number of drop off and pickups from couriers in large vans and lorries is greatly reduced in comparison to the previous use of the site.
- 8.25 The Applicant has also advised that the peak times for the proposed use are different to other commercial uses within the Hunts Building and the adjacent Burbage Business Centre, which operates a gym, dance school, and a gymnastics club. In light of the above, the Local Highway Authority (LHA) does not believe that it can reasonably demonstrate that the proposal results in a severe increase in the type or value of traffic using the site.
- 8.26 Based on the submitted plans, no amendments are made to the existing site access onto Burbage Road, which is also utilised by a variety of other industrial and commercial properties and businesses. The LHA have reviewed their Personal Injury Collision (PIC) database and note that there has been five recorded PICs within 500m either side of the site access within the last years to the end of July 2023. These all occurred on the B4699 to the northeast of the access. Of these, one PIC was recorded as serious, while four were recorded as slight. The LHA advise that there is no pattern in the nature of the PICS, or a specific location where they have occurred. As a result, the LHA is satisfied that the proposals do not lead to an increase in traffic using the site, and therefore the LHA consider the existing access arrangements are suitable and unlikely to exacerbate the likelihood of any further PICs occurring.
- 8.27 The Applicant is not proposing any amendments to the existing provision within the application site as ten off-street vehicle parking spaces are available. The LHA notes that the proposal results in three full-time and one-part-time members of the staff working at the site. Therefore, the LHA consider that that is sufficient parking for staff and customers.

- 8.28 To summarise, it is considered that there is already adequate off-street parking for the development, and the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

- 9.3 There are no known equality implications arising directly from this development.

- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1 The proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design.
- Does not have an adverse impact upon the character and appearance of the area.
- Does not have a significant adverse impact upon residential amenity.
- Does not have a significant adverse impact upon highway safety.
- Provides sufficient vehicle parking spaces for off-street parking.

- 10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

- 11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2 Conditions and Reasons

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 requirements 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 not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Access Plan (submitted: 18.09.2023)
 - Proposed Floor Plan, Drg No. 02 (submitted: 18.09.2023)
 - Site Location Plan (submitted: 18.09.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the Access Plan which was received by the Local Planning Authority on 18 September 2023. Thereafter the onsite parking and turning provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (2023).

4. No ancillary car repair shall take place between the hours of 6pm and 7am or at any time on Sundays or Bank Holidays.

Reason: In the interests of amenity of neighbouring residents in accordance with Policy DM10 of the Site Allocations and Development Management policies Development Plan Document

a. **Notes to Applicant:**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.