

Delegated Report

Planning Ref: 24/01160/FUL

Applicant: Mr Barry Burrell

Ward: Newbold Verdon with Desford & Peckleton

Site: 1A Mallory Park, Church Road, Kirkby Mallory

Proposal: Change use of industrial unit from Class E to mixed use Class E and B2 to allow for MOT testing



Hinckley & Bosworth
Borough Council

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 application is for the proposed change of use from the existing industrial unit used as a car workshop (Class E(g)) to mixed use Class E(g) and B2 as a MOT garage.

3. Description of the site and surrounding area

- 3.1. The site is located within the established motor sports venue known as Mallory Park, located in the countryside to the west of the village of Kirkby Mallory. As set out above the site is currently used as a car workshop.

4. Relevant planning history

None

5. Publicity

- 5.1. The application has been publicised by posting neighbour letters, and a site notice was posted within the vicinity of the site.
- 5.2. No comments received.

6. Consultation

- 6.1. HBBC Pollution: No objections, after additional information was provided regarding potential noise.
- 6.2. LCC Highways: No objections.
- 6.3. Kirkby Mallory, Peckleton & Stapleton Parish Council: no objections.

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.3. Other relevant guidance

- Good Design Guide (2020)

- National Design Guide (2019)
- Employment Land and Premises Study (2020)

8. **Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Assessment against strategic planning policies

- 8.2. The 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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. 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, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009), and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. The site is located within the countryside and therefore Policy DM4 is relevant. DM4 allows for the change of use of buildings where there is an enhancement to the setting of the site. As the building is currently used as a car workshop with the proposal to allow for MOT testing the development would comply as a change of use, however, there would be no enhancement to the setting of the countryside. Nonetheless given the existing use, the development is judged to diversify the use of the site and accords with the principles of DM4.
- 8.5. The site is located within the established Cultural and Tourism facility at Mallory Park. Policy DM24 is therefore relevant. The existing building is not currently used or ancillary to the tourism site and therefore its diversification to include MOTs does not conflict with Policy DM24.

Design and impact upon the character of the area and heritage assets

- 8.6. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.7. Policy DM11 and DM12 relate to protecting and enhancing the historic environment. There are two Listed buildings near to the site, 21 Stapleton Lane to the north of the site and West Lodge Cottage to the south of the site.
- 8.8. The character of the area is defined by multiple industrial units, with car parking afforded to each unit. The proposed change of use is not proposing significant external alterations and as such would not create any detrimental visual impacts to the locality. The proposal includes internal changes which would not be considered to cause any impact on the character of the area and as such is considered to be in accordance with Policy DM10 of the SADMP.

- 8.9. Similarly owing to the limited visual change and current use of the site the development would not harm the setting of the nearby Listed buildings and therefore preserves their significance.

Impact upon neighbouring residential amenity

- 8.10. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.11. The site is located approximately 50m south of the closest neighbouring dwelling, 21 Stapleton Lane. HBBC Environmental Health (Pollution) initially queried the proposal, asking for specific details of the proposed operation which could give rise to increased noise levels when compared with the existing use. The Applicant confirmed that MOT bays create no more noise than a standard workshop, therefore the noise emissions would be no greater than what is generated by the existing use. Following this, HBBC Environmental Health confirmed that they have no objection.
- 8.12. Given that the site is a reasonable distance from residential development, no additional noise will be generated, and given the existing industrial nature of the site, the application for the conversion of the unit to a MOT testing station is not considered to cause detrimental impacts to neighbouring residential amenity. As the existing level of use and noise generation is not known, a condition has been included to limit the operational hours of the proposed MOT testing station to reasonable working hours, to ensure that any noise emissions do not lead to unacceptable noise and disturbance. As such the proposal is considered to be in accordance with Policy DM10 of the SADMP subject to this condition.

Impact upon highway safety

- 8.13. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the SADMP requires new development to provide an appropriate/justified level of parking provision.
- 8.14. Leicestershire County Council have been consulted as part of this proposal and have confirmed that there would be no material impact on the public highway as the Applicant is not proposing any additional staff. It is also accepted by Officers that the number of trips to the site when comparing against the previous use would not be materially intensified. The existing access and parking arrangements would be adequate for the proposed use, and as such it is considered acceptable, in accordance with Policy DM17 and DM18 of the SADMP.

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 proposal is considered acceptable due to the limited impacts upon the character of the area and the amenity of adjacent buildings. It is considered that the proposed development would be in accordance with Policies DM10, DM17, DM18 and DM19 of the adopted SADMP, and Policy T1 of the DNP.
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, as follows:
- Site Location Plan – 1337.MP.24.001 Issue B
Existing Site Plan - 1337.MP.24.002 Issue B
Existing Plans and Elevations 1337.MP.24.003 Issue B
- 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 opening hours of use shall not take place other than between the hours set out below:
- Monday – Friday: 08:00 - 18:00
Saturday: 08:00 – 17:00
Sundays, Bank and Public Holidays: No hours permitted

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

11.3 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.
2. Please note external advertisement may require Advertisement Consent from the Local Authority, applications for Consent can be applied for via www.planningportal.co.uk