

Delegated Report

Planning Ref: 23/00240/FUL
Applicant: Mr Hall
Ward: Kirkby Mallory



Hinckley & Bosworth
Borough Council

Site: JKS Shopfitting & Joinery Ltd Workshop, Kirkby
Moats Farm, 14 New bold Road, Kirkby Mallory, Leicester LE9 7QG

Proposal: Proposed Industrial Storage Unit

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 seeks planning permission for a new industrial unit of approximately 940m². This single split height commercial unit will then facilitate the expansion of the current facilities to enable commercial growth of the current occupier Arlen Flooring by offering an expansion to the current storage facilities found on the site.
- 2.2. The scale of the proposed unit is designed to be commensurate with the scale of the site allowing the requisite circulation and parking requirements. The proposed design is guided by the local built vernacular required by the Landscape Character Assessment for this area and the pre-application advice (21/10196/PREHMO) received on 1st Nov 2022.
- 2.3. New secure palisade fencing and gates will be installed. Vehicular access will not change from the existing situation. Proposed opening times would be 8am – 5pm Monday to Friday. There will be no increase in employment figures for PT or FT as the development is solely for the expansion of the storage facilities already found within the site.

3. Description of the Site and Surrounding Area

- 3.1. The application site is accessed directly off Newbold Road, Kirkby Mallory and is situated on the periphery of Kirkby Mallory approximately 1000metres north of the main village. The site is approx. 200m back from the highway with landscaping between the site access and the site which has existing buildings on it. The closest dwelling is approximately 200metres South South West of the proposed development (there is a current planning application for the replacement of this existing dwelling). The wider area is predominantly rolling farmland. The site has an existing commercial unit located adjacent to the North East boundary of approximately 1144m² and on the western side of the site historic poly tunnels in a state of disrepair. There is a current stable block located approximately 85m south west of the existing commercial site that also has a current planning application to replace the existing. Historically the wider site was home to a medieval/post medieval moated site as noted in below Historical Environment Record.
- 3.2. Kirkby Mallory is a rural hamlet with farming origins within the civil parish of Peckleton. Buildings are a mix of older two storey cottages in red brick and slate roof and newer red brick, white render with clay roof tiles from modern infill and expansion. The site is located within the open countryside.

4 Relevant Planning History

21/10196/PREHMO Proposed erection of B2/B8 units for expansion of existing flooring company

5. Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site. No letters of representation have been received

6. Consultation

- 6.1. LCC Highways- No objections subject to the imposition of a condition

- 6.2. No objection, some subject to conditions, has been received from:
LCC Ecology- No objection subject to the precautionary measures pre-construction
HBBC Drainage- No objections subject to informative
HBBC Conservation- No comments or objections
HBBC Waste Services- No objections.

HBBC Pollution- No objections subject to a condition

LCC Archaeology- No objections subject to the imposition of a condition should permission be granted. Specific comments were: 'We recommend that you advise the applicant of the following archaeological requirements, for post-determination trial trenching.

The Leicestershire and Rutland Historic Environment Record (HER) notes that the application area lies adjacent to the remains of an elaborate, now filled-in, complex of water filled features and ditches (HER ref.: MLE3043). The original function of this monument is uncertain, but it could possibly have been a medieval garden feature or potentially a park lodge. Cropmarks identified during aerial photography in the 1980s have been interpreted as possible prehistoric pit alignments running southeast to northwest, c. 150m south of the site (MLE3031; MLE3047) and the HER also shows probable rectangular Iron Age enclosures in the wider landscape (MLE3026; MLE3027). There is therefore a potential for buried archaeological remains from the medieval and post-medieval periods within the application area, with an additional potential for prehistoric remains, which may be impacted by the development proposals.

Although the application site has seen some disturbance through 20th/21st century building development, there are areas where archaeological remains are likely to have survived undisturbed. Archaeological trenching will therefore be necessary to identify the presence, extent and significance of buried archaeological remains within the site and ascertain any appropriate subsequent archaeological mitigation.

In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 194, the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application (NPPF paragraph 195).

While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.

NPPF paragraph 205, states that Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.

In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.

If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, and with relevant Chartered Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

We therefore recommend that any planning permission be granted subject to the planning condition at the end of this report (informed by paragraph 37 of Historic England's Managing Significance in Decision-Taking in the Historic Environment GPA 2), to safeguard any important archaeological remains potentially present.

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

Peckleton Stapleton Parish Council – No comments received

Arboricultural Officer- No comments received

HBBC Regeneration Officer- No comments received

7. Policy

7.1. Core Strategy (2009)

- None applicable

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation

- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM11: Protecting and enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM20: Provision of New Employment Sites

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

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

Assessment against strategic planning policies

8.2. The application site is located within the countryside to the north of Kirkby Mallory. Policy DM4 of the SADMP seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside by safeguarding it from unsustainable development. Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

8.3. Policy DM20 states that the development of new employment sites will be supported where they are within settlement boundaries or on previously developed land.

8.4. This application proposes an additional storage building to provide more storage for an existing business.

8.5. The site is located approx. 150m from the highway within an existing commercial setting. The proposal is to expand the current facilities by creating an additional storage unit of the same use class within the existing commercial zone contained within a large mixed use site of over 6.5 acres consisting of a private residence, stabling with associated paddock and the existing commercial unit. The proposal is for an additional commercial unit of similar size and style as the existing contained within the commercial zone of the overall site with no change of use class.

- 8.6. The applicant has highlighted that following the approval of this planning application there will be no increase in employment figures for PT or FT, as the development is solely for the expansion of the storage facilities already found within the site however the expansion to the storage area is said to enable commercial growth of the current occupier. The building would be sited on land which appears to have been previously developed via poly tunnels, partial surfacing and appears to be used for storage. It is well related physically to the existing use of the site for commercial uses.
- 8.7. The proposed development would be on previously developed land, relates to the expansion of an existing business on site and would provide for economic growth in the form of greater potential for business growth. In conclusion, in light of the combination of all the above factors, the development is on balance supported by Policy DM4 of the SADMP and Policy DM20. However, it should be noted that the economic benefits alone would not be significant to an extent that would justify the development if it wasn't an existing business and the development was not of previously developed land.
- Impact upon the character of the area and heritage assets
- 8.8. Policy DM4 of the SADMP seeks to ensure development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. 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.
- 8.9. The application site is in the countryside and surrounded by agricultural fields. The site is well screened and not readily visible from Kirkby Mallory. The sizing of the unit is commensurate with the size of the curtilage within which it stands and to the existing built form located within the site. The site is located to the rear of the overall site and is extremely well screened by mature hedgerow rendering the proposed development virtually invisible from the public realm. Due to the rural nature of the location, there is no overarching architectural style with which to create a conflicting aesthetic, hence, when coupled with the sheltered and screened boundaries, there is limited opportunity to impact on the visual amenity of the location. The design has been developed alongside the Landscape Character Assessment appropriate to the area.
- 8.10. The operating time of the business is not 24 hours (9 to 5 Mon – Fri), so additional high level / flood lighting will not be required, but there may be the requirement for some downward facing security lighting positioned on the existing and proposed buildings. These would not be permanently on, only illuminate when triggered during the evenings and through the night, removing additional light pollution, and used as supplementary lighting during the winter period when natural light levels are low.
- 8.11. The proposed building would reflect the size, height and materials of the existing building with a turning circle proposed between the 2 buildings. A Landscaping plan will be conditioned for additional planting to the north-west & south-west of the proposed building. It is therefore considered that the proposed would be in keeping with the character and appearance of the existing building. New secure palisade fencing and gates will be installed, with details to be submitted via condition.

- 8.12. The proposed development is sited within the existing established commercial zone and not within the historical moats area, as evidenced by historical maps and site visits. The Conservation Officer had no objections to the proposal. Given the previous working of the site, it is unlikely that any archaeologically or historically significant remains will be disturbed but a watching brief will be maintained whilst any excavation or groundwork is in progress.
- 8.13. It is considered that the proposed extension would not impact the surrounding countryside and the proposed landscaping would enhance the setting. Therefore, the development is considered to be in accordance with Policies DM4, DM10, DM11 and DM12 of the SADMP.

Impact upon neighbouring residential amenity

- 8.14. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties.
- 8.15. The new unit doesn't overlook, overshadow or overbear neighbouring properties. The nearest dwelling is approximately 130metres to the South South West and as such the proposed development has no impact on neighbour amenity. The new storage building is proposed to be subject to the same opening times as the existing business. The noise and disturbance associated with the additional storage capacity would not have an additional material impact on the amenity of the occupiers of any adjacent dwelling.
- 8.16. It is considered that the proposed change of use would not have an adverse impact on neighbouring amenity and is in accordance with Policy DM10 of the SADMP.

Impact upon Highway Safety

- 8.17. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.18. The Applicant is proposing to utilise the existing access onto Newbold Road. The Applicant has not submitted any detailed scaled drawings demonstrating the vehicular visibility splays but the LHA are satisfied with this as the proposed is for additional storage which would not lead to additional jobs or traffic. Given the proposals would not lead to an intensification of use of the access, the LHA find the access arrangement acceptable for the proposed use subject to the imposition of a condition should permission be granted.
- 8.19. It is considered that the proposed development would be served by sufficient car parking and would not have an adverse impact on pedestrian and vehicular highway safety. The proposed development is considered to be in accordance with Policy DM17 and DM18 of the SADMP.

Impact upon Biodiversity

- 8.20. Policy DM6 of the SADMP requires that development proposals must demonstrate how they conserve and enhance features of nature conservation.
- 8.21. The applicants have submitted an ecological appraisal. LCC ecology department have reviewed this and have confirmed the assessment confirms that the site is of low ecological value and that the potential for protected or notable species to be

present is low. There are no objections to the development providing that precautionary measures are undertaken prior to the commencement of any construction activities. The proposed does not meet the criteria for requiring BNG. Subject to the aforementioned condition and compliance with the recommendations of the Ecological Assessment the proposal therefore complies with policy DM6 of the SADMP.

Equality Implications

- 8.20. 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.
- 8.21. 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.
- 8.22. There are no known equality implications arising directly from this development.

9. Conclusion

- 9.1. The proposed development is for an Industrial Storage Unit in the countryside. The development would enhance the setting of the existing building, is on previously developed land and would provide some economic growth benefits. The development is in accordance with Policy DM4 and DM20 of the SADMP.
- 9.2. The proposed development would involve the construction of another building similar to the existing building as well landscaping planting which would enhance the character of the area and countryside. The proposed would not have a material impact on the amenity of the occupiers of the adjacent dwelling and would not adversely impact on pedestrian and vehicular highway safety.
- 9.3. The proposed development is considered to be in accordance with Policies DM1, DM4, DM10, DM17, DM18 and DM20 of the SADMP.

10. Recommendation

- 10.1. Grant planning permission subject to:
- Planning conditions outlined at the end of this report.
- 10.2. **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 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, details and materials:
- Proposed Roof Plan Drg No. PC504/04 (received on 20/04/2023)
 - Proposed Floor Plan Drg No. PC504/03 (received on 20/04/2023)

- Site Location Plan Drg No. PC504/01 (received 14/03/2023)
- Proposed Elevations Drg No. PC504/05 (received 20/04/2023)
- Site Plan Drg No. PC504/02 (received 14/03/2023)

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. The storage facility hereby permitted shall not be open to the public outside the following times:
Monday to Friday - 08:00 to 17:00
The storage facility hereby permitted shall not be open to the public on , Saturdays, Sundays and Bank Holidays

Reason: To ensure there are no adverse impacts on the amenity of the occupiers of neighbouring properties and to ensure the visual amenity of the countryside to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

4. Before the development hereby permitted is brought into use a hard & soft landscaping plan, including details of any new boundary treatments (including fencing and gates) must be submitted to & approved in writing by the LPA. The landscape planting must enhance the site and shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development leads to an enhancement of the setting of the application site to accord with Policy DM4 of the Site Allocations and Development Management Policies DPD.

5. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Site Plan drawing number PC504/02. Thereafter the onsite parking and turning provision shall be kept available for such use(s) 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 (2021).

6. No demolition/development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving.

7. The development shall be carried out in accordance with the recommendations of the submitted Ecological Appraisal by C.B.E Consulting. Particularly the precautionary measures (e.g. nesting bird, amphibian and reptile checks) which should be completed prior to the commencement of any construction activities. In addition to the recommended biodiversity enhancements in the form of bat/bird boxes, native planting and habitat creation as outlined in the report.

Reason: In order to protect the protected wildlife species and their habitats on site to accord with in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
4. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of

the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).

5. All businesses have a duty of care to ensure that any waste produced is handled safely and within the law.

Storing waste

Business operators should take steps to avoid their waste causing problems with rats, mice, insects and birds:

- Bins should be maintained and stored so that they don't cause problems to neighbouring premises due to smells
- Waste should be stored correctly in a suitable container which needs to be closed or lidded

Waste collection

- Operators should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely