

## Hyndburn Borough Council – Planning Committee

**Application Ref:** 11/18/0244

**Application Address:** Land to the rear of Kirkham Garage, Blackburn Road Westend Oswaldtwistle, BB5 4NZ

**Date Registered:** 28<sup>th</sup> June 2018

**Date for Decision:** 22<sup>nd</sup> August 2018

**Date Report Written:** 3<sup>rd</sup> August / 4<sup>th</sup> September 2018

**Description of Development:** Full: Proposed storage and service yard for portable accommodation and plant.

### **HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

#### **Article 8**

The right to respect for private and family life, home and correspondence.

#### **Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

### **Site and Proposal**

The application site consists of a rectangular area of unused land located to the rear of Kirkham Garage, off Blackburn road in Oswaldtwistle. The site is vacant of buildings. White Ash Brook runs adjacent to the site to the east with semi-detached properties on Buttermere Drive positioned on a higher ground level to the west. Industrial units abut the northern boundary of the site whilst mature trees and a palisade fence bound eastern and southern boundaries. Access into the site is already established off Blackburn Road which is also being used by existing commercial neighbouring businesses.

Planning permission is sought for the land to be used for a storage and service yard for portable accommodation and plant. The majority of the site will be used for storage containers, some of which would be double stacked to a height of around 5.5m which would require the use of a 12-tonne forklift to position and manoeuvre the containers. The self-storage area directly behind Kirkham Garage and the main site access would contain up to 23 6m x 2.4m storage containers and 2 3m x 2.4m containers available to the public to lease. The site would also contain a permanent

cabin for welfare/office facilities, a permanent container for storage and a temporary Zapp Shelter spanning between 2 of the containers.

An area for staff/visitor parking and parking of 2no 60ft wagons as well as more containers but this number would vary from day to day and could be up to 80 containers on the site. The site would have a concrete base and containers that have been returned can be unloaded from the wagons and cleaned before being stored elsewhere on the site. Hours of operation are proposed to be from 7am to 6pm Monday to Friday. No hours of operation have been proposed for Saturdays, Sundays and Bank Holidays. A total of 5 permanent staff would be employed. The land has been empty for a number of years with the last use being in connection with the lease of commercial vehicles.

### **Consultations**

Site notice: 2 affixed 9 letters of objection received. The objection comments cover a variety of concerns which include:

- The potential increase of noise from the operations
- The potential of damage to ecology and wildlife from operations
- The potential of an increase in pollution levels
- The proposed hours of operation
- Proximity to dwellings and Foxhill nature reserve

LCC Highways: No objections subject to conditions

Env Health: No objections subject to conditions surrounding hours of operation, light pollution, noise pollution.

HBC Ecology: No objections but recommends conditions be attached for pollution prevention methods be submitted to and approved in writing by the Local Planning Authority to safeguard the woodland and watercourse.

LCC Fire Officer: No objections

United Utilities: No objections but recommend conditions in relation to drainage

### **Relevant Planning History**

08/ 0169. CHANGE OF USE FROM BUS DEPOT TO VEHICLE MOT CENTRE.  
A/C 02.05.2008

06/0261 ERECTION OF FENCING RETROSPECTIVE. A/C 29.06.2006

99/0527. CREATION OF HARDSTANDING TO PROVIDE PARKING AREA  
FOR VEHICLES, CONTAINERS AND CAR PARK AND ERECTION  
OF 2.9m HIGH FENCING. A/C 16.02.2000.

80/0204. WORKSHOP EXTENSION. REFUSED 19.06.80

79/0193. ERECTION OF MOTOR VEHICLE REPAIR GARAGE WITH STORAGE OF COACHES. REFUSED 04.10.79

77/0286. CONTINUED USE OF COACH GARAGE FOR AUTO-ELECTRICAL REPAIRS. A/C 29.09.77

75/0286. CHANGE OF USE TO CARAVAN STORAGE AREA. A/C 02.10.75

## Relevant Policies

### Hyndburn Core Strategy Policies

BD1	Balanced Development Strategy
Env3	Landscape character
Policy Env6	High Quality Design
Policy Env7	Environmental Amenity

### Development Management DPD

Policy DM1	Employment Development
Policy DM17	Trees, Woodland and Hedgerows
Policy DM18	Protection and Enhancement of the Natural Environment
Policy DM21	Protection of Open Spaces
Policy DM26	Design Quality and Material
Policy DM29	Residential Amenity

### National Planning Policy Framework

Section 8	Promoting healthy and safe communities
Section 12	Achieving Well Designed Places

### Observations

Planning applications should be determined in accordance with the policies of the development plan, unless material considerations indicate otherwise. In Hyndburn the development plan comprises the Core Strategy, Development Management DPD and the saved policies of the Local Plan. The National Planning Policy Framework represents an important material consideration. The main issues for consideration in determining this application are the principle of the development, its impact upon residential amenity and ecology.

### Principle

The site is within the urban boundary of Accrington and although the site is shown as “Open Space” on the Local Plan Proposals Map, this policy has not been saved. Although the policy has not been saved, it is still necessary to consider whether the site should be treated as open space under the extant policy framework.

The definition of open space set out in the NPPF reads: “*All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes*

*and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity".* The issue is whether the land is deemed to have public value and offer an important opportunity for sport and recreation (including acting as a visual amenity).

Although the site is visible from adjacent properties, it is not available for use by the public (by virtue of it being securely fenced) and it has no sports or recreational value. The site has also been cleared with the intention of future development. As such, officers consider that the proposal would be in line with policy DM 21 of the Development Management DPD which provides that land designated as open space can be developed where (d) it relates to a cleared site, that has been landscaped but where there is a clear intention for future redevelopment.

Given the condition and physical nature of the site it is not considered that there are sufficient grounds to resist the proposed development on the basis that it would give rise to a loss of open space.

The site is also identified as an 'existing employment site' (site ref OSW08) on the DM DPD Policy Maps and the proposal would employ 5 permanent staff, therefore Policy DM1 of the Development Management DPD applies. The policy states that:

- employment development will be supported provided that it is within the defined urban area;
- it will not give rise to unacceptable adverse impacts on the amenity of neighbouring land uses by virtue of increased levels of noise, odour, emissions or dust (an issue that will be covered later in the report);
- it is well connected to strategic or local transport networks
- The site is located off Blackburn Road, a main arterial route through Accrington, Oswaldtwistle and into Blackburn and is therefore easily accessible by motor car. The road is also a main bus route and Oswaldtwistle train station is within walking distance.
- the traffic generated by new employment development does not have an unacceptable impact adverse impact on local amenity and does not compromise the safety of other highway users;
- A transport assessment has been carried out which concludes that traffic generated by the development would have a negatable effect upon traffic levels and local amenity. It is also the case that LCC Highways raise no objections or concerns.
- that biodiversity and geodiversity are protected and enhanced in line with other policies (this point shall be discussed later in the report)

Policy BD1 of the Hyndburn Core Strategy states that priority will be given to developing brownfield land within the urban areas.

The site has previous industrial use history and is located within a mainly industrial area; the ground is hardstanding and is now overgrown and fallen into disrepair.

Furthermore, this is a brownfield site and it is considered that it is sustainably located and the principle of development therefore would be acceptable and in line with Policy BD1 of the Hyndburn Core Strategy.

### **Impact upon residential amenity**

The proposed site lies immediately to the east of the rear gardens of residential properties on Buttermere Drive. In relation to the Site plan submitted BS981/01, in principle the layout of the site looks acceptable, however the amenity of neighbouring residential dwellings on Buttermere Drive needs to be considered.

Policy Env7 of the Hyndburn Core Strategy states that proposals for new development will be permitted only if it is demonstrated that the material impacts arising by reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity. Policy DM 29 of the Development Management DPD has similar aims.

Objection comments received cite the potential of increased noise, dust, pollution and odour levels during hours of operation. A noise impact assessment has been carried out by the applicant to assess the potential increase in noise levels from the development on surrounding noise sensitive receptors. Although the Noise Impact Assessment undertaken indicates that the noise assessment shows that the development could give rise to "Significant Adverse Impact", this can be reduced to an acceptable level by mitigation. The Council's Environmental Health Officer has been consulted and considers that the conditions that are recommended are satisfactory in this respect.

Additionally, it is considered that the loudest operation on site would be that of the forklift truck, however, the use of this is not likely to be continuous through the day but it is recommended that the forklift truck be electric as opposed to diesel powered. The report concludes that some 'significant adverse impact' is expected, however, when considering the surrounding area of industrial and commercial use, the impact would not be as severe. The increase in ambient noise level assessment shows that the level of impact is expected to be 'substantial' and conditions should be attached to any permission to mitigate the noise emissions from the site and would reduce the noise level to 'minor adverse impact'. Subject to conditions being attached to mitigate potential noise level increases, the proposal is in line with Policy Env 7 of the Hyndburn Core Strategy and Policy DM 29 of the Development Management DPD.

### **Impact upon Ecology**

An ecological impact assessment has been undertaken by Bowland Ecology Ltd. The purpose of the survey was to identify and map all habitats occurring within the survey area, identify the presence of (or potential for) wildlife interests with particular

reference to legal requirements and provide an ecological impact assessment, identify potential impacts and provide recommendations pertaining the proposal.

An assessment of the effects on ecological features has been made using the available design and survey information and the professional judgement of an ecologist. It concludes that no sites with a statutory or non-statutory designation would be impacted by the proposed development due to their distance from the site and the low impact of the works. The site is also not listed as an area which requires further consultation with Natural England. Additionally, the proposed development is considered to not have an impact upon any habitats that hold significant ecological value and any loss is not considered to constitute a significant impact.

The site is not part of the Foxhill Bank Local Nature Reserve, however it is clearly a part of the Lancashire Woodland Ecological Network as set out on the Development Management DPD Policy Maps, hence DM18 applies. Policy DM18 requires that new developments should not fragment or prejudice the ecological network unless the development clearly outweighs the harm to the network and an alternative connection can be provided. Comments have been sought from the Council's Ecology Officer and other relevant parties to ensure that the requirements of DM18 are satisfied.

Paragraph 5 requires that 'development in proximity to the ecological network will be expected to contribute towards the on-going management, enhancement and protection of the network through the provision of complementary landscaping, habitat enhancement, and appropriate long-term site management'

Hyndburn Borough Council's Ecological Officer has been consulted on this proposal and states that conditions should be in place to for 'pollution prevention methods' to safeguard the woodland and water course from pollution causing contamination during construction and post construction as the woodland adjacent is a Habitat of Principle Importance (NERC Act 2006).

A key element of the NPPF is to minimise impacts to biodiversity and provide enhancements. Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains to biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

Policy DM 17 of the Development Management DPD states that to ensure that the benefits of the proposed development outweigh the harm resulting from the loss of trees, compensatory planting must take place at a ratio of at least 3:1.

It has been noted that trees from around the site have been removed. As such, a condition should be attached to any permission which requires the trees be replaced at the 3:1 ratio. Additionally, in order to lessen the impact of noise pollution, trees should also be planted along the boundary with Buttermere Drive in a soft landscaping scheme to the satisfaction of the Local Planning Authority. Furthermore,

in order to achieve a gain in biodiversity, bat and bird boxes should be placed. In conclusion, the proposal complies with Policies DM 17 and DM 18 of the Development Management DPD subject to conditions.

### **LCC Highways**

LCC Highways have been consulted on the application and offer no objection but recommend conditions be attached in relation to the parking area and turning circle being left freely available for the parking of vehicles and the parking bays be marked out as indicated on the approved plans.

### **United Utilities**

United Utilities have been consulted on the application and offer recommended conditions in relation to drainage. They also highlight that

*A public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary.*

### **Conclusion**

The principle of the development has been established and is acceptable as it falls in line with Policy DM 1 and 21 of the Development Management DPD and Policy BD1 of the Hyndburn Core Strategy.

Although the noise impact assessment carried out deemed that the potential noise generated from the development could have a 'significant adverse impact' on residential amenity, particularly the residents of Buttermere Drive, it is considered that with careful implementation of noise limitation conditions and landscaping, the development would mould into the surrounding industrial noise climate and would not have a significant adverse impact upon residential amenity.

In terms of ecological impact, an independent ecological impact assessment was carried out which deemed the development would not have a significant impact upon the ecology of the area. Likewise, Hyndburn Borough Council's Ecology officer deemed the site as not having ecological value but caution should be taken with the potential contamination of the woodland and water course, of which a condition can be attached to prevent this from occurring. LCC Highways and United Utilities are equally satisfied that the development would not have a significant impact in their respective areas subject to the careful implementation of conditions.

### **Recommendation**

That planning permission be granted subject to the conditions recommended below.

### **Conditions**

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents unless otherwise required or amended by the conditions below:

- (a) The planning application forms, location plan and additional information received by Hyndburn Borough Council on 28<sup>th</sup> June 2018
- (b) Submitted drawings no BS 981/02, BS 981/03, BS 981/04, BS 981/05, BS 981/06, BS 981/07, CBO-0517-003\_TS FINAL 220518, TOPOGRAPHICAL SURVEY received on 28<sup>th</sup> June 2018

Reason: for the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

- 3) Construction works & associated deliveries (during construction) shall be restricted to between 0800 and 1800hrs Monday to Friday and 0800 and 1300 on Saturdays. Works shall not take place on Sundays and bank holidays. All works shall be undertaken in accordance with BS5228:2009.

Reason: To ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise in order to accord with Core Strategy Policy Env7 and the NPPF.

- 4) Prior to the commencement of the development a scheme and programme for the landscaping of the western boundary of the site shall be submitted to and approved by the Local Planning Authority. The scheme and programme shall include the following:
  - I. Details of tree planting including species, size, location and spacing, and;
  - II. The maintenance and management of the landscaping for the duration of the development including the replacement of dead or dying plants.The scheme and programme shall be implemented in accordance with the approved details for the duration of the development.

Reason: In the interests of visual amenity and biodiversity and in accordance with Policy Env 7 of the Hyndburn Core Strategy and Policies DM 17, 18 and 29 of the Development Management DPD and the National Planning Policy Framework.

5) The site shall not open outside the following hours:  
08:00 to 18:00 hours Monday to Friday

The forklift truck shall not operate except between 10:00 and 16:00 hours Monday to Friday.

Reason: In order to limit noise levels to protect residential amenity and for the proposal to fall in line with Policy Env 7 of the Hyndburn Core Strategy and Policy DM 29 of the Development Management DPD.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no structure shall be erected, or storage or waste disposal shall occur, in the turning circle shown on the proposed site plan, such areas being kept free at all times for the parking, manoeuvring and loading of large vehicles.

Reason: To ensure adequate provision of such facilities in the interests of the safety and free flow of vehicles on the surrounding highways and to comply with Policy Env 7 of the Hyndburn Core Strategy.

7) Prior to the occupation of the development, a Method Statement for 'pollution prevention methods' to safeguard the woodland and water course from pollution causing contamination during construction and post construction shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order for the proposal to fall in line with Policies DM 17 and DM 18 of the Development Management DPD.

8) The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with Policy Env 7 of the Hyndburn Core Strategy.

9) Prior to the occupation of the development hereby approved, a scheme and programme for management of noise (Noise Management Plan) and fumes at

the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme and programme shall include the following:

Noise

- i. The layout / positioning of containers at the site to maximise their value as an acoustic screen;
- ii. Details of the forklift truck and its use on the site;
- iii. The management of heavy goods vehicle movements to and from the site and at the site;
- iv. Reversing alarms that will be fitted to vehicles used at the site;
- v. The measures to be taken to minimise noise arising from the opening and closing of container doors;
- vi. Details of the construction of the hard surface across the site
- vii. The maximum noise level arising from operations at the site when measured at the site boundary. The rated level shall not exceed 5dB when measured 1m from the fascia of the nearest noise sensitive receptor (property).

Fumes

- viii. Measures to be taken to minimise exhaust emissions from vehicles operating at the site.

The scheme and programme shall be implemented in accordance with the approved details for the duration of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and in accordance with Policy Env 7 of the Hyndburn Core Strategy Policy DM 29 of the Development Management DPD and the National Planning Policy Framework.

10) Prior to the occupation of the development the details of the external lighting shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy Env7 of the Hyndburn Core Strategy.

**Informatics**

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