

Development Control Committee
Meeting to be held on 9 April 2014

Electoral Division affected: Accrington South
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Hyndburn Borough: application number LCC/2014/0018
Retrospective change of use from garage to end of life vehicle authorised treatment centre and car repairs at Gillies Street Garage, Gillies Street, Accrington

Contact for further information:
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Executive Summary

Application - Retrospective change of use from garage to end of life vehicle authorised treatment centre and car repairs at Gillies Street Garage, Gillies Street, Accrington.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling working programme, hours of working, and site operations.

Applicant's Proposal

Retrospective planning permission is sought for the change the use of a car repair garage to a garage that also includes end of life vehicle waste recycling. The site area of the garage is approximately 220m².

There are no proposals to alter the external facades of the building and all entrances would remain in existing locations. Vehicular access to the site would be as existing from Gillies Street via a roller shutter door. The applicant has advised that 3 vehicles a week are processed. The cars are dismantled in the garage where they are drained of all fluids and then the parts are stored on the shelves ready for sale via the internet. No vehicles or parts are stored outside the building as the remainder of the cars are then taken to a scrap metal merchant in Huncoat.

Although there are no skips, a wheelie bin is kept in the garage. The fluids are stored in steel drums on pallets inside the building prior to collection by a licensed waste carrier. Approximately 40 litres of waste fluid derived from vehicles being dismantled are collected and removed off site each week.

The hours of operation are 09:00 to 17:00 Monday to Friday with no workings on Saturday, Sunday or Bank Holidays.

Description and Location of Site

Gillies Garage is located in an area of mixed uses approximately 0.5km to the east of Accrington town centre.

An alley way and rear yards of terraced properties on Lee Street form the western boundary. Gillies Street with terraced properties opening on to the pavement forms the eastern boundary. Residential properties are directly opposite the garage premises some 9m away. To the north are industrial buildings some of which are vacant. Immediately to the south of the garage building is an off-street car park with a row of three attached bungalows some 10m away.

Background

The building is an established garage. There is no relevant planning history.

Planning Policy

Planning Policy Statement (PPS) 10 - Planning for Sustainable waste management

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17 – 19, and 122 of the NPPF are relevant with regard to the requirement for sustainable development, core planning principles, building a strong economy, and conserving and enhancing the natural environment.

Joint Lancashire Minerals and Waste Development Framework Core Strategy
DPD (JLMWDF)

Policy CS7	Managing our waste as a resource
Policy CS8	Identifying capacity for managing our waste

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development
Management Policies (JLMWLP)

Policy NPPF1	Presumption in favour of sustainable development
Policy DM2	Development Management
Policy WM1	Capacity of Waste Management Facilities

Hyndburn Core Strategy

Policy ENV 7	Environmental Amenity
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Consultations

Hyndburn Borough Council - Policy Env7 of the Hyndburn Core Strategy states, 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 and can be properly controlled in accordance with best practice and recognised standards. Hyndburn Borough Council object to the proposed change of use until such a time as a pre-determination Acoustic Assessment has taken place in accordance with the advice received from the Environmental Health Officer.

Should the application be approved, a condition is recommended in relation to the control of fumes, vapours and odour, and an informative for the developer to have regard to BS 8233:1999 'Sound insulation & noise reduction for buildings – Code of Practice', in order to minimise the transmission of noise from the building(s).

LCC Developer Support (Highways) - No objection.

Environment Agency (EA) - The operation requires an Environmental Permit.

County Councillor Dawson – Has requested that the application be determined by the Development Management Committee in light of requests from local constituents.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. No representations have been received.

Advice

The applicant is seeking retrospective planning permission for the change of use of a former garage at Gillies Street to accommodate a vehicle de-pollution/recycling operation.

The applicant has advised that approximately three vehicles per week are imported to the site where they are drained of hydraulic and engine fluids and subsequently dismantled within the building. The recovered parts are then stored elsewhere within the building awaiting sale and removal from the site. No vehicles or parts are stored outside the building. The remains of dismantled cars are taken to a scrap metal merchant in Huncoat.

When considering applications for waste development including vehicle recycling operations a local planning authority must have regard to the EU Waste Framework Directive, which has been made part of domestic law by the Waste (England and Wales) Regulations 2011. This legislation provides that the local planning authority must have regard to the 'relevant objectives', which are ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods that could harm the environment and, in particular, without risk to water, air, soil, plants or animals; or causing nuisance through noise or odours; or adversely affecting the countryside or places of special interest.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the issues that arise from the proposed development it is not only necessary to take into consideration the

relevant policies of the Development Plan but also the planning history of the site and all other material planning considerations. Government policy is a material consideration that should be given appropriate weight in the decision making process.

National policy seeks to achieve sustainable waste management by moving the management of waste up the 'waste hierarchy', which is reduction, re-use, recycling, composting, using waste as a source of energy and only disposing of waste as a last resort.

PPS 10 stresses that the wider environmental and economic benefits of sustainable waste management are material considerations that should be given significant weight in determining planning applications. Policy DM2 of the JLMWLP supports proposals for waste management operations where it can be demonstrated that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels.

The use of the premises assists in the recycling of vehicles which are no longer fit for purpose and therefore contributes towards meeting the objectives of Government policy.

The application site is not defined within the proposals map of the Hyndburn Local Plan as having a specific site allocation. However, it has an existing use as a car repair garage, which typically falls within a B2 (general industrial) Use Class. Vehicle de-pollution centres are typically regarded as 'sui-generis' uses in that they do not fall within any of the defined planning use classes and therefore require separate planning permission. Nevertheless, given the scale and nature of the operations, which are currently undertaken within the existing building, it is considered that the proposal is not dissimilar to many general industrial operations that could be undertaken at the site without any further permission including a continuation of works associated with a car repair garage.

The operations do have the potential to generate some disturbance given the relatively close proximity of local residents but not to an extent that could be readily distinguished from general noise associated with a car repair garage. However, the applicant has applied for operating hours of 09:00 to 17:00 Monday to Friday with no workings on Saturday, Sunday or Bank Holidays and de-polluting activity would take place within the building. Subject to conditions preventing external activities and applying controls to hours of working to those proposed for the operation of the premises for all purposes, it is considered that noise nuisance and general disturbance is unlikely to be unacceptable given the history and previously permitted uncontrolled use of the site.

With regards to general pollution control measures including prevention of water pollution, the operations are subject to the applicant satisfying the requirements of the EA's Environmental Permitting regime, which stipulates the operational standards and practices that must be employed to ensure the protection of the local environment. Paragraph 122 of the NPPF makes it clear that local planning authorities should focus on whether the development itself is an acceptable use of

the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes.

In view of the NPPF guidance and the existing permitted rights at the site it is considered unreasonable to request the applicant to submit a noise assessment or impose conditions relating to the control of noise, odour, vapours, fumes, contrary to the recommendations of Hyndburn Borough Council. The EA has confirmed that the operations would require an Environmental Permit, which would control the day to day operations for the purposes of Policy ENV7 of the Hyndburn Core Strategy.

The application site relates to the use of the building. The building does not have a yard or off-street car parking area. However, the applicant has advised that the cars that are brought to the site are unloaded into the building where they are stored pending dismantling and removed from the premises following dismantling for further recycling. There is on street parking adjacent to the site where the existing two employees park and which does not conflict with residential parking. Therefore, it is considered that the vehicle movements associated with the operation would not have a significant impact on the highway network.

Whilst County Councillor Dawson has requested the application to be determined by the Committee at the bequest of his constituents, no details of their concerns or why they wish the application to be determined by the committee have been provided and no representations have been received. It is therefore not possible to understand the concerns of local residents or address them.

It is considered that given the proposed development would be an acceptable use of the site and it is unlikely that there would be any unacceptable impacts in view of the previous use. The development complies with the policies of the NPPF and the policies of the development plan.

In view of the small scale nature and location of the development it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be **granted** subject to the following conditions:

Working Programme

1. The development shall be carried out, except where modified by the conditions of this permission, in accordance with the following documents:
 - a) The Planning Application and supporting statement received by the County Planning Authority on 29 January 2014.
 - b) Submitted Plans:

Location Plan - Barnes Street Garage, Accrington.

Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with Policy DM1 of the Joint Lancashire Minerals and Waste Local Plan Site Allocations and Development Management Policies - Part One.

Hours of Working

2. No car repairs/vehicle breaking/de-pollution operations shall take place outside the hours of:

0900 - 1700 Monday to Friday (excluding Public Holidays).

No car repairs/vehicle breaking/de-pollution operations shall take place on Saturday, Sundays or Public Holidays.

Reason: To safeguard the amenity of adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan Site Allocations and Development Management Policies - Part One and Policy Env7 of the Hyndburn Core Strategy.

Site Operations

3. All car repairs/vehicle breaking/de-pollution operations shall be undertaken within the building outlined in red on the Drawing entitled "Barnes Street Garage, Accrington"

Reason: To safeguard the amenity of adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies -Part One and Policy Env7 of the Hyndburn Core Strategy.

Notes

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
LCC/2014/0018	March 2014	C Lewis/ENV/30490

Reason for Inclusion in Part II, if appropriate

N/A.