

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 14 April 2021

APPLICATION REF. NO:	21/00128/CU
STATUTORY DECISION DATE:	12 April 2021
WARD/PARISH:	Northgate
LOCATION:	Unit 1, Weir Street
DESCRIPTION:	Change of Use from storage and distribution (Use Class B8) to car showroom
APPLICANT:	Albert Hill Properties

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q82CFLFPLCD00>

APPLICATION AND SITE DESCRIPTION

1. The unit is one of three attached units, last used as a gymnasium, that have recently been granted planning permission, subject to conditions, to be used for Class B8 (Storage and Distribution) purposes. This planning application has been submitted by the owner of the units and is seeking planning permission to operate a car showroom from Unit 1 which is a “sui generis” use. This is a term given to the uses of land or buildings, not falling into any of the use classes identified by the Use Classes Order.
2. The unit would be used by an operator for the sale of motor vehicles which are advertised on the internet. Customers would view or collect cars on appointment-only basis and the unit would not be open as a “walk in” showroom. There would be a small office area inside the building and the cars would be cleaned and polished inside the unit. There would be no external alterations to the unit and the planning application forms state that the use would operate as follows:

- Monday to Friday - 08:00 - 18:00
 - Saturday - 10:00 - 16:00
 - Closed on a Sunday and Bank Holiday
3. The wider area is a mix of commercial use, but residential properties known as Skerne View (to the north) and Skerne Studios (to the south) which are former warehouse buildings that have been converted, are located next door at either end of the three units. The River Skerne lies directly to the east and a derelict site of former warehouse buildings lie opposite to the west. A cobbled lane provides access to the application site as well as the neighbouring residential properties.
 4. As stated above, Units 2 and 3 have also recently been granted planning permission for B8 uses (ref no 20/00884/CU and ref no: 19/00528/CU).

MAIN PLANNING ISSUES

5. A planning application (ref no 17/01168/CU) for the change of use of Unit 1 from a Gymnasium (Use Class D2) to Storage and Distribution (Use Class B8) (Retrospective application) was REFUSED in May 2018 but a subsequent application (ref no: 20/00883/CU) was GRANTED in December 2020 subject to planning conditions. The main issues to be considered here are whether the proposed use is considered acceptable in the following terms:
 - a) Planning Policy
 - b) Residential Amenity
 - c) Highway Safety
 - d) Flood Risk
 - e) Impact on the Character and Appearance of the Area

PLANNING POLICIES

6. The application site is located within the development limits for the urban area and therefore the principle of the planning application would accord with saved policy E2 of the Local Plan 1997 and CS1 of the Core Strategy 2011. The other local development plan policies which are relevant are those seeking to ensure that the development:
 - Is acceptable within the Valley Street Employment Area (Policy EP2 of the Local Plan 1997; CS1, CS5 and CS10 of the Core Strategy 2011)
 - Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy 2011)
 - Is within a sustainable location and accessible by various modes of transport, pedestrians, and disabled persons (CS2 of the Core Strategy 2011)
 - Protects the general amenity and health and safety of local community (CS16 of the Core Strategy 2011)
 - Will be focussed on areas of low flood risk (Flood Zone 1) and it should comply with national planning guidance and statutory environmental quality standards relating to risk from surface water runoff, groundwater, and sewer flooding (Policy CS16 of the Core Strategy 2011)

RESULTS OF TECHNICAL CONSULTATION

7. The Council's Highways Engineer and Environmental Health Officer have no objections to the principle of the development subject to the imposition of appropriate planning conditions
8. The Environment Agency has raised no objections to the proposed development

RESULTS OF PUBLICITY AND NOTIFICATION

9. Three letters of objection have been received following the Council's publicity exercises and the comments can be summarised as follows:
 - *Concern that the use will escalate into a full and working car dismantling operation with noise, disturbance, oil spillage taking place.*
 - *Vans and lorries blocking Skerne Studios single point of access out onto the road.*
 - *Customers parking in a way that prevent emergency vehicles from accessing Skerne Studios.*
 - *This will turn a relatively clean, calm, pleasant and noise free environment into an area that will be polluted by loud noises, car fumes, cars spilling out into the road and blocking up the street.*
 - *Residents are highly unlikely to get a reprieve on a weekend either, as we will have to contend with such issues on a weekend too.*
 - *A car sales room will not improve the surrounding area.*
 - *The external wall of my property (Skerne View) is the internal wall of Unit 1 therefore the unit is immediately now next door to my home. I oppose this application due to an increase of noise levels from both within the unit and the area immediately outside. I can easily hear conversations being had within the unit and the noise from even the radio playing when the occupier is on site. I also hear the sound of cars/vehicles being started, engines running, and revved whilst the vehicles are checked over, whether it be routine maintenance etc that comes from selling vehicles!*
 - *Where will customers park? Weir Street is a narrow cobbled back lane with double yellow lines running its length down both sides.*
 - *What are the proposed opening hours?*
 - *Does the owner of the unit plan to submit change of use for unit 2 and unit 3 for the same? Would we then have a row of car showrooms between the two residential settings in Weir street.*
 - *There are plenty of used car showrooms within Darlington along with premises available nearer to these businesses.*
 - *Over the years Skerne Studios and Skerne View have tried to regenerate this area, Skerne Studios now contains six dwellings, there is a current planning application (20/00897/FUL) for further 4 apartments at Skerne Studios and there is currently work being carried out converting a home in Garden street into 2 new apartments, due to be completed in the next few weeks. The town has the future regeneration of Northgate and North Road train station for 2025, which are a stone's throw away from Weir Street. Pease's house on Northgate, a very important house in Darlington*

is to be returned to its former glory by Darlington Borough Council. All of the above helping to regenerate this once important part of our town. I strongly believe there should be no place for car showrooms or the like, that may put a halt to any future regeneration which has now restarted

10. The comments have also included concerns over impacts on the potential sale and market value of the residential properties, but this is not a material planning consideration.

PLANNING ISSUES/ANALYSIS

a) Planning Policy

11. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
12. The site is located within the Valley Street Employment Area. Saved policy EP2 of the Local Plan states that Class B1 uses will be acceptable within this area along Class B2 and B8 uses subject to meeting certain criteria. The proposed use would not fall within these use classifications.
13. Policy CS5 of the Core Strategy 2011 seeks to safeguard existing viable employment sites for employment purposes or for mixed uses, where appropriate unless certain exceptions can be met such as the continued B8 use giving rise to unacceptable environmental issues, the continued use for employment purposes is no longer viable; an alternative mix of uses offer greater potential benefits to the community in meeting local needs for businesses and employment or the site is no longer required for the purposes of providing a balanced portfolio of land for employment purposes.
14. Although the change of use would be contrary to saved policy EP2 there are material planning considerations to which weight could be attached which would enable the local planning authority to support the proposed use, in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004.
15. Notwithstanding those issues considered in detail below, the building has previously been used for a non B1, B2, B8 use (a gymnasium). There are also other car showrooms operating within the wider Valley Street Employment Area and a further car showroom use would not therefore be out of character with other existing uses. The loss of this existing B8 use would not harm the portfolio of B8 units in the Borough for a number of reasons which include the limited time in which a B8 use has operated from the unit; the limited size of the unit and as Units 2 and 3 would still remain in B8 use.
16. The proposed car showroom is an employment type related use which would not be unusual within a designated employment area. This, together with the

considerations set out above, are material planning considerations to which significant weight can be attached in consideration of this planning application. On this basis, the principle of the proposed use is considered to be acceptable. A condition is attached limiting the use of the property to a car showroom only.

b) Residential Amenity

17. Skerne View is a former warehouse building that has been converted into residential use and it is attached to the north elevation of Unit 1. The building is currently in use as a single dwelling but there is a planning application (ref no 20/00897/FUL) currently under consideration to extend and alter the building to create four apartments.
18. Skerne Studios is a detached former warehouse building converted to a residential complex located to the south of Units 1 to 3 Weir Street.
19. Unit 1 Weir Street has been the subject of a previous enforcement investigation when it was occupied by a clothing company without the benefit of planning permission. A retrospective planning application for this clothing company (Class B8) to continue to operate from the unit was refused in 2017 as the operating hours of that particular business were considered unacceptable and the use of large articulated vehicles to bring and take away clothing raised highway safety and amenity concerns.
20. A subsequent application for a general B8 use with no specific end user was granted in 2020 with planning conditions to restrict the hours of use, ensuring that all loading and unloading took place within the building and no plant and equipment should be installed without planning permission. The same planning conditions have been placed on the planning permissions for Units 2 and 3.
21. The proposed hours of use for the car showroom would remain unchanged from those set out in planning permission reference number 20/00883/CU for the B8 use from Unit 1, which also matches the approved hours for Units 2 and 3. The showroom would operate on an appointment only basis rather than being a “walk in” showroom which should limit the number of visitors to the premises at any one time. It is considered that the proposed hours are acceptable, and the amenities of the neighbouring residential properties would not be significantly harmed by the “coming and goings” of customers or vehicles.
22. Planning conditions are recommended to secure the proposed hours of use, prevent the use of any plant and machinery without having to first apply for planning permission and to ensure all operations associated with the showroom do not take place outside of the showroom building. A further condition has been recommended which restricts the use of the unit to a car showroom. These planning conditions are considered necessary to safeguard the amenities of the neighbouring dwellings and with such measures, in place, the use would accord with policy CS16 of the Core Strategy 2011.

c) Highway Safety

23. The unit is of modest scale and perhaps able to accommodate approximately 20 cars for viewing by potential customers. As such it is not expected that there will be significant traffic generation by browsing customers, especially as the viewings will be appointment based. The proposal does not include any customer parking area, but nearby parking is available for visitors within Garden Street car park, as well as on-street parking provision on John Dobbin Road.
24. Customers would be able to visit and use conveniently located parking without having to park outside the premises where they may cause obstruction or nuisance.
25. Existing double yellow lines to prohibit parking are in place and should offer assurance that vehicle parking will not be problematic. This should be easier to enforce than previous complaints associated with HGV parking, where it is legal to park even for extended periods for the purpose of loading and unloading. There is also specific legislation to control vehicles for sale within the public highway and action can be taken should a trader leave 2 or more cars for sale on the road within 500 metres of each other, or to carry out repairs to vehicles on the road. The Council's Highways Engineer has raised no objection to the use and the proposal would accord with policy CS2 of the Core Strategy 2011.

d) Flood Risk

26. The proposed development falls within Flood Zone 2, which is land defined in the planning practice guidance as being at medium risk of flooding. The Environment Agency has advised the proposal would not result in a change of vulnerability of use in respect to flood risk although would increase the number of people in an area of flood risk through the use of the building as a car show room. The Environment Agency has raised no objections to the use and the scheme would accord with policy CS16 of the Core Strategy 2011

e) Impact on the Character and Appearance of the Area

27. There would be no external alterations to the building. There are other car showrooms within the Valley Street Employment Area and whilst there are two residential developments on either side of Units 1 to 3 Weir Street, the wider area is primarily in commercial use. The use of the unit as a car showroom would not be out of character with the surrounding area and it is not a use which would prevent any regeneration plans for the wider area, which are currently not fully known. The use would accord with Policy CS2 of the Core Strategy 2011.

THE PUBLIC SECTOR EQUALITY DUTY

28. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The unit has a pedestrian door and a large opening for vehicular access which are level and would provide disabled access to the building and the vehicle display area which would accord with the objectives of policy CS2 of the Core Strategy 2011.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

29. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION AND RECOMMENDATION

30. The proposal is for the change of use of unit, which was recently granted planning permission for a B8 use, to a car showroom. Although the proposal would be contrary to saved policy EP2 of the Local Plan 1997 which permits B1, B2 and B8 uses within the Valley Street Employment Area, there are in this instance other material planning considerations which would allow the local planning authority to support the planning application. The unit has previously been used for a non B1, B2, B8 use, there are other car showrooms within the Employment Area, the loss of this modest B8 unit would not harm the employment portfolio within the Borough and, subject to the use of appropriate planning conditions, the use would not cause significant harm to the amenities of the neighbouring residential dwellings or highway safety and there are no flood risk issues. The planning application has been considered in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004 and the recommendation is to approve, subject to planning conditions.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plan, as detailed below:
 - a. Drawing Number 20259.P001 – Existing Layout

REASON – To ensure the development is carried out in accordance with the planning permission

3. The premises shall be used for car showroom purposes only and for no other purpose or purposes whatsoever without express planning consent of the local planning authority.

REASON – To enable the Council to maintain control over the use of the site to safeguard the character and amenities of the site and the neighbouring residential properties in the locality.

4. The use hereby permitted, including deliveries to and from the site, shall not be carried on outside the hours 0800 to 1800 Mondays to Friday; 1000 to 1600 Saturdays with no working on a Sunday or Bank Holiday

REASON - In order to safeguard the amenities of neighbouring residential properties.

5. The display or sale of vehicles and the carrying out of maintenance or any other works to any vehicle shall not take within or on the land and buildings edged blue on the submitted Site Location Plans – Drawing Numbers 20259.OS01 and 20259.OS02 Rev A.

REASON – To safeguard the amenities of neighbouring residential properties.

6. No plant, equipment or machinery shall be installed as part of the use hereby approved, at any time, without the prior written approval from the Local Planning Authority. Where plant, equipment or machinery is proposed, details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the use.

REASON - In order to safeguard the amenities of neighbouring residential properties.