

## **Item No. 7**

<b>APPLICATION NUMBER</b>	<b>CB/13/02542/FULL</b>
<b>LOCATION</b>	<b>Lombardis Pizza, Red Lion, Deadmans Cross, Shefford, Bedford, SG17 5QQ</b>
<b>PROPOSAL</b>	<b>Change of use of part of the external area to form 2 No. separate car sales yards with an associated office on each site. To reform the access in accordance to new requirements. Associated fencing and resurfacing.</b>
<b>PARISH</b>	<b>Haynes</b>
<b>WARD</b>	<b>Houghton Conquest &amp; Haynes</b>
<b>WARD COUNCILLORS</b>	<b>Cllr Mrs Barker</b>
<b>CASE OFFICER</b>	<b>Lauren Westley</b>
<b>DATE REGISTERED</b>	<b>08 August 2013</b>
<b>EXPIRY DATE</b>	<b>03 October 2013</b>
<b>APPLICANT</b>	<b>Mr Singh</b>
<b>AGENT</b>	<b>SIMIC ASSOCIATES</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called into Committee by Councillor Barker on the grounds of overdevelopment, highways and detrimental impact to the countryside.</b>
<b>RECOMMENDED DECISION</b>	<b>Approval</b>

### **Summary of Recommendation:**

The use would not have a negative impact on the character of the area or an adverse impact on the residential amenity of neighbouring properties and is acceptable in terms of highway safety. It is therefore in accordance with the aims of the National Planning Policy Framework (2012), policies CS11, CS14, DM3 and DM4 of the Core Strategy and Development Management Policies (20

### **Site Location:**

The application site is located on the northern side of the A600, within the hamlet of Deadman's Cross. The site was originally occupied by a public house (known as Red Lion) and attached dwelling. However following the closure of the public house, it now operates as an A3 restaurant (Indian) with an A5 take-away to the rear (Pizza) with B&B accommodation available on the upper floors. The attached dwelling house is still in use for residential purposes.

The eastern end of the site is hard surfaced and used as a parking area for the existing uses on the site. The western end of the site was originally the pub garden but has not been hardsurfaced. The boundaries of the site are fenced and vegetated with a mix of hedging and trees. Access into the site is directly off the A600.

The site is located within the Open Countryside.

## **The Application:**

The application is mainly retrospective and seeks planning permission for the use of the site as two car sales yards. The site is arranged with one car sales to the northern end of the site and one car sales yard to the southern end of the site, behind the existing parking area for the current uses of the site. Access to both will be via the existing access, past the parking area for the existing uses. Each car sales yard will have its own office, which are mobile buildings, one of which is already in situ. When combined, the car sales yards will allow for the display of 68 motor vehicles, some of which are already in situ.

To facilitate this, the northern end of the site has been laid with tarmac, and the southern end covered in a gravel finish.

Areas of planting are proposed but the majority of which is already in situ. The boundary fencing is also already in situ.

## **RELEVANT POLICIES:**

### **National Planning Policy Framework (2012)**

Section 1 - Building a Strong, competitive economy

Section 3 - Supporting a prosperous rural community

Section 7 - Requiring good design

Section 11 - Conserving and enhancing the natural environment

Circular 11/95 - The use of Conditions in Planning Permissions

### **Core Strategy and Development Management Policies - North (2009)**

CS11 Rural Economy and Tourism

CS14 High Quality Development

DM3 High Quality Development

DM4 Development within and Beyond Settlement Envelopes

### **Supplementary Planning Guidance**

Design in Central Bedfordshire: A Guide for Development

DS7 Movement, Streets and Places

CBC Emerging Parking Strategy, Appendix F, Central Bedfordshire Local Transport Plan, endorsed for Development Management purposes by Executive October 2012

### **Planning History**

CB/13/01037/FULL Change of use of the external areas at the rear and to the sides of the property to form a car sales yard and a separate caravan/camper van (non-residential) storage site. To amend the road access and formalise the car parking to the front of the site as previously approved.

Withdrawn - 02.05.2013

CB/10/03712/FULL Change of use of part of the external area of the site to the siting of touring caravans and camper vans. Erection of

reception/office area and toilet block. Widening of existing access.

Granted - 26.05.2011

### **Representations:**

Haynes Parish Council No response received at time of writing.

Neighbours  
(Two responses received at time of writing)

Object to application -

- Residents of Deadmans Cross are contemplating/intending to leave the hamlet as we are overrun with planning applications that impact daily life. The threat of travellers, camping sites, car sales, static storage B&B and whatever else the Red Lion owners car to conjure up.
- Red Lion have been able to do what they like and have had Council backing, so I can not see how this application will be any different.

### **Consultations/Publicity responses**

Highways

Request additional information from applicant before full assessment can be undertaken:

- Where are the staff parking areas for proposed use;
- Where are the customer parking areas for proposed use;
- What is the frequency of transporters visiting the site.

It is considered that the once the information is provided, appropriate conditions can be attached to any grant of planning permission.

Trees and Landscaping No response received at the time of writing

Public Protection No response received at the time of writing

### **Determining Issues**

The main considerations of the application are;

1. Principle of Development
2. Impact on Character of the Area and Streetscene
3. Impact on Neighbouring Amenity
4. Highway, Access and Parking
5. Other Considerations

### **Considerations**

#### **1. Principle of development**

The National Planning Policy Framework (NPPF) states in paragraph 28 that to promote a strong rural economy, policies should 'support the sustainable growth

and expansion of all types of business and enterprise in rural areas'.

Policy CS11 of the Council's Core Strategy and Development Management Policies (CSDMP) states that the Council will seek to support the rural economy by supporting the diversification of the rural economy to commercial, industrial, tourism and recreational uses in the first instance.

It is also worth noting that there is an existing extant planning permission (CB/10/03721/FULL) for the change of use of the site (same area as the proposed car sales yards) to be used for the siting of touring caravans and camper vans, with the erection of a reception/office area and toilet block. This permission was granted in 2011 and can still lawfully be implemented. It therefore forms a legal fallback position and as such is a material consideration in the assessment of this application.

Given the above, it is considered that there is strong policy support for the continued commercial use of the site and the further diversification of businesses operating from the premises. It is noted that there are two existing car sale yards operating within the hamlet of Deadmans Cross, and this application will permit an additional two yards, albeit within the same premises. However national and council policies do not restrict the number of the same types of uses within an area and as such there are no grounds for rejecting the application on the basis of the close proximity of similar uses. In planning terms, there is policy support for the commercial use of the site and as such in principle, the use of the premises for car sales is in accordance with adopted local policies, and national guidance.

## **2. Impact on character of the area and streetscene**

The site is located within the hamlet of Deadmans Cross, which is in the open countryside. The hamlet is a small linear settlement of some 8 dwellings, a car garage with car sales and a separate car sales yard, and this property all of which address the A600 which runs through the hamlet. Therefore, whilst being small, the hamlet has existing commercial uses and a busy road, giving the hamlet a busier character than what might normally be expected in the countryside.

The application site has several existing commercial uses operating from the existing building (originally a public house), with the two car sales yards proposed to the north and rear of the building and parking areas. For clarity, the yards have been termed the north yard and south yard. The north yard will directly abut the A600 and as such is not screened by the existing built form on the site. However this area is well screened by existing boundary treatments that comprise fencing and landscaping, the majority of which is already in situ.

The main visual impact from the proposed use will be the parked cars and resulting hardstanding. The northern yard can not be seen from any public vantage points, even standing outside the site on the A600. The rear yard is set back behind the existing built form and associated parking areas, and as such can only be seen in the context of the existing commercial uses on the site. The existing planting and fencing significantly softens the appearance of the site, and further planting is proposed as part of this application. The boundary treatments are therefore considered a sympathetic soft response to the rural character of

the countryside. Given the beneficial visual impact that this provides, it is considered reasonable to impose conditions to control the landscaping of the site.

The two office buildings, which are both mobile portacabin buildings, have been sited to the rear of the property. One building is located to the rear of the existing commercial building, and one is to the rear of the existing dwelling house. They are single storey, flat roofed buildings with a total height of 2.4m.

These are both considered to be sensitive locations with both structures screened from view by the boundary treatments, but also the existing built form.

Given the above, the use of the site for car sales is not considered to have any significant adverse impact on the visual amenity of the site or the surrounding area. The additional hardstanding which has been laid, particularly the tarmac, is not considered to be sympathetic to the open countryside setting, but the harm caused is mitigated by the existing boundary treatments and as such does not warrant refusal of the application.

As such the proposal is considered to accord with policies CS14 and DM3 of the Core Strategy and Development Management Policies (2009).

### **3. Impact on neighbouring amenity**

Core Strategy policy DM3 requires that new development respects the amenities of surrounding neighbours.

A dwelling is located on the site and will be directly adjacent to the car sales area. Adequate parking and garden space has been retained for this property.

All other neighbouring residential properties at Deadman's Cross are on the opposite side of the road. It is considered that a loss of amenity through the loss of outlook will not arise as the cars will be screened from view by the existing boundary vegetation. This vegetation is currently in excess of 2m in height and is dense, restricting views through.

There will be a degree of disturbance from the comings and goings of the staff and customers, as well as the arrival of the cars for sale. However it is considered that the level of noise and disturbance is likely to be no more than that which could be experienced from the use of the land as a garden attached to the restaurant, or the previous beer garden use or the noise from caravans and camper van occupiers (as previously approved). It is considered reasonable to attached a condition controlling the operational hours to ensure that the businesses only operate during sociable hours.

Overall it is considered that the proposal would not adversely effect the amenities of nearby neighbours.

### **4. Highway, access and parking**

Full highway comments are still pending the receipt of further information, as outlined above, and as such will be included as part of the late sheet. However it is considered that parking areas for staff and customers of the new uses will be achievable on site with the loss of display parking and as such the use is considered acceptable in highway terms, subject to conditions.

Previously, concern has been raised by residents that the access to the site will be dangerous. The speed limit for this section of road is 40 mph road which will require 120.0m visibility splays in either direction and which is achievable. There is concern from neighbouring properties that this limit is rarely observed and that the 120 metres stretch of the visibility splay is directly after a deep bend in the road. However, breaches of the speed limit are a police matter and as such can not be taken into account as part of this planning application.

Plans have been submitted showing that the access is satisfactory for a pantehnicon (refuse vehicle) to turn within the site. Tracking diagrams have also been submitted showing that it is possible for transporter vehicles to enter and exit the site without pulling into oncoming traffic, subject to widening the existing access way. A waiting area is to be provided adjacent to the exit to ensure that there is sufficient room for tranporter vehicles to pull in off the highway.

It is considered that although there will slow moving vehicles as they brake to enter the site there will be sufficient visibility and breaking distance along this stretch of road due to the 40 mph speed limit. Likewise vehicles leaving the site should be visible to oncoming traffic.

It is anticipated that the applicant will be providing further details to address the comments raised by the Highways Officer. These details, along with the corresponding highway comments will be provided in the late sheet, prior to the Committee meeting.

## **5. Other considerations**

There have been comments made from local residents relating to the ongoing planning applications submitted within Deadmans Cross generally. The Council can not control the applications that are submitted, and can only deal with each application as and when it is submitted, which includes notifying adjacent occupiers.

There have also been comments made regarding the ongoing enforcement case and the use already being 'sanctioned' by the Council. It is not illegal for an applicant to commence a use or building without first seeking planning permission. In the event that this happens, enforcement action is taken to either cease use the use or require the submission of a retrospective application to retain the use or works. If a retrospective application is received, it is determined on its merits, against the adopted policies, in the same way as a proposed development would be.

## **6. Conclusion**

The retrospective change of use to car sales, with the associated offices and hardsurfacing, is considered to be in accordance with the aims of the National Planning Policy Framework and adopted Council policies.

The use is not considered to have any significant negative impact upon the character or appearance of the site or the surrounding open countryside. It does not have any significant adverse impact upon the residential amenity of nearby occupiers or upon highway safety. Approval of the application is therefore recommended.

### **Human Rights Act**

Based on the information submitted there are no known issues raised in the context of the Human Rights Act and as such there would be no relevant implications.

### **Equality Act**

Based on the information submitted there are no known issues raised in the context of the Equality Act and as such there would be no relevant implications.

### **Recommendation**

That Planning Permission be GRANTED subject to the following:

### **RECOMMENDED CONDITIONS / REASONS**

- 1 Within two months of the date of this permission, details of the external lighting of the site including locations, design, heights and level of luminance are to be submitted in writing to the Local Planning Authority. If a lighting scheme is installed, it shall accord with the approved details and retained for the duration of the development.**

**Reason: To protect the amenity of neighbouring properties and the rural character of the local area, in accordance with policy DM3 of the Core Strategy and Development Management Policy (2009).**

- 2 Within two months of the date of this permission, details of surface water drainage for the site shall be submitted to the Local Planning Authority. Within two months of the details being approved, the approved drainage works shall be constructed and implemented on site and thereafter retained for the duration of the development.**

**Reason: To avoid the carriage of mud or other extraneous material or surface water from the site so as to safeguard the interest of highway safety and reduce the risk of flooding and to minimise inconvenience to users of the premises.**

- 3 Within two months of the date of this permission, and notwithstanding the details shown on the approved plans, details of the modified junction of the vehicular access with the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved modified junction shall then be constructed on site within two months of the details being approved.**

**Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the premises and to mitigate oversail from**

**delivery vehicles to the site, in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).**

- 4 **Within one month of the date of this permission, details of visibility splays to be provided at the junction of the access with the public highway shall be submitted to the Local Planning Authority. The minimum dimensions of the required vision splay lines shall be 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 120.0m measured from the centre line of the proposed access along the line of the channel of the public highway. The approved vision splays shall be implemented on site within one month of the approval of the details and remain free of any obstruction for the duration of the development. Reason: To provide adequate visibility between the existing highway and the proposed access, and to make the access safe and convenient for the traffic which is likely to use it, in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).**

- 5 No deliveries of cars shall be taken at or dispatched from the site outside the hours of 08.00 and 18.00 on Mondays to Saturdays, and not at all on Sundays and Bank Holidays.

Reason: To safeguard the amenities of neighbouring properties, in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 6 The landscaping scheme shown on plan 10536:02E shall be carried out no later than the end of the full planting season immediately following the date of this decision.

Thereafter the planting shall be adequately maintained for a period of five years from the date of planting. Any of the trees or shrubs or both which die or are removed, or which become severely damaged or seriously diseased (during the said period of five years) shall be replaced with trees or shrubs or both, as the case may be, of similar size and species to those originally required to be planted and the same shall be maintained until properly established.

Reason: In order to ensure that the planting is carried out within a reasonable period in the interest of the visual amenities of the area, in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 7 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 10536:02E, 10536:03B and TSP/MRS/01.

Reason: For the avoidance of doubt.

### **Notes to Applicant**

1. **Any conditions in bold must be discharged in accordance with the timescales set out. Failure to comply with this requirement could**



**invalidate this permission and/or result in enforcement action.**

2. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire Council's Highway Help Desk, Technology House, 239 Ampthill Road, Bedford MK42 9BA quoting the Planning Application number and supplying a copy of the Decision Notice and a copy of the approved plan. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

The applicant is advised that, under the provisions of the Highways Act 1980, no part of the boundary structure, including fencing and foundations, shall be erected or installed in, under or overhanging the public highway and no door or gate shall be fixed so as to open outwards into the highway.

The Highway Authority has the power under Section 143 of the Highways Act 1980, to remove any structure erection on a highway.

3. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, Technology House, 239 Ampthill Road, Bedford, MK42 9BD.
4. The applicant is advised that photographs of the existing highway that is to be used for access and the delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the Local Highways Authority at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.
5. The applicant is advised that in order to achieve vision splays it may be necessary for vegetation overhanging the public highway to be removed. Prior to the commencement of work the applicant is advised to contact Central Bedfordshire Council's Customer Contact Centre on 0300 300 8308 to request the removal of the overhanging vegetation on the public highway.

**Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31**

The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country

**DECISION**

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