

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 16th August 2021

Application No:	HPK/2021/0206	
Location	182 Market Street, Chapel-en-le-Frith	
Proposal	Retrospective Change of Use from B1 Class III to Car Showroom	
Applicant	Mr Mason Farmery	
Agent	Mr Simon Jones, SJ Design	
Parish/ward	Chapel East Ward	Date registered 9 th April 2021
If you have a question about this report please contact: Faye Plant, Tel. 01298 28400 extension 4995, faye.plant@highpeak.gov.uk		

1. SUMMARY OF RECOMMENDATION

Approve with Conditions

1. REASON FOR COMMITTEE DETERMINATION

- 1.1 This application has been brought before the Development Control Committee at the request of Ward Member Councillor Jim Perkins and because the scheme is locally controversial.
- 1.2 This application was previously considered by the committee at its meeting on June 14th 2021, where members deferred to application to give the applicant time to provide additional information regarding parking and drainage and also for the comments of Severn Trent Water, the Environment Agency and the Councils Environmental Health Officer to be finalised. This was due to concerns raised regarding the ambiguity of the allocated parking shown on the proposed plan and on site and concerns regarding water pollution from the use as a garage.
- 1.3 Despite requests from officers the comments from Severn Trent water and have not been forthcoming. The comments from the Environment agency and Environmental Health are detailed below. Officers have reconsidered the retrospective proposal along with the additional information received.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 This application relates to a former B1 industrial unit within an established industrial site located to the north east of Chapel en le Frith town centre. The part of the larger site to which this application relates

comprises a single storey former industrial building and a nearby parcel of land utilised for parking.

- 2.2 The building was previously in use as a B1 light industrial unit and has since November 2020 been in use as a car showroom. Cars are parked for sale within the building and on the forecourt with staff and customer parking identified on land to the east of the site accessed off Sheffield road. The building itself fronts Market Street. The building is of a brick construction painted blue with a pitched roof and gable that fronts Market Street. There are 2 full size entrance doors on the front elevation.
- 2.3 The site is surrounded by residential development to the south and west with predominantly industrial and commercial occupiers to the north and east. Consequently this area of the town has a mixed character.
- 2.4 The site is located within the development boundary and an existing employment site (ES1) as designated within the Chapel en le Frith Neighbourhood plan. The site is surrounded by, and the forecourt falls within, the Town End Conservation Area.

3. DESCRIPTION OF THE PROPOSAL

- 3.1 This application has been invited as a result of an enforcement investigation and seeks retrospective consent for the change of use of the building to a car sales showroom (sui generis). Other than external painting there are no external alterations as part of this application.
- 3.2 The garage comprises 218sqm and is in operation Monday-Saturday 8:00 until 18:00 and 10:00 to 16:00 on Sundays and Bank Holidays. 3 full time equivalent members of staff are employed with 2 full and 2 part time positions.
- 3.3 Vehicles for sale are parked within the building and on the garage forecourt. Staff and visitor parking is laid out to the north east of the site off Sheffield Road and comprises 10 spaces parallel to the eastern boundary of the neighbouring industrial land.
- 3.4 Following the previous committee meeting the applicant has provided an updated plan which demonstrates 4 separate staff spaces and 6 visitor spaces to be demarcated with and a sign above (which is not the subject of this application). The plans also show the location of 8no. floor drains (surface water drains), as the forecourt falls towards the building and this allows any surface water to drain on site rather than to the highway.
- 3.4 Full details of the proposal can be found at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=247010>

4. RELEVANT PLANNING HISTORY

4.1 The site has been subject to the following planning history:

HPK/2019/0150 Erection of a single-storey industrial building with an improved concrete base, ancillary to existing operations at Natural Stone Surfaces Ltd. – WITHDRAWN 09/09/2019

HPK/2013/0225 Proposed Residential Development – REFUSED 08/08/2013

HPK/2012/0176 Proposed Residential Development Consisting Of 53 No. Dwellings – WITHDRAWN 24/07/2012

HPK/2006/0704 Demolition Of Toilet Block And Construction Of Link Corridor - APPROVED 14/11/2006

5. PLANNING POLICIES RELEVANT TO THE DECISION

Chapel En Le Frith Neighbourhood Plan 2013 – 2028

Employment Policy EP1: Design of Employment Site
Employment Policy EP2: Existing Employment Sites
Employment Policy EP4: Employment Land Allocation
Employment Policy EP5: Site Specific Requirements for Allocated employment land

High Peak Local Plan 2016

S1 Sustainable Development Principles
S1a Presumption in Favour of Sustainable Development
S6 Central Sub-area Strategy
EQ6 Design and Place Making
EQ7 Built and Historic Environment
EQ11 Flood Risk Management
E1 New Employment Development
CF6 Accessibility and Transport

National Planning Policy Framework

Achieving Sustainable Development
Building a Strong and Competitive Economy

Chapter 2
Chapter 6

Promoting and Healthy and Safe Communities	Chapter 8
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Meeting the challenge of climate change and flooding	Chapter 14
Conserving and Enhancing the Natural Environment	Chapter 15
Conserving and Enhancing the Historic Environment	Chapter 16

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 31 st May 2021
Neighbour letters	Expiry date for comments: 13 th May 2021
Press Notice	Expiry date for comments: 20 th May 2021

Neighbours

6.1 2 Letters of objection have been received and are summarised below;

- We own 2 areas of land that have access rights over the area shown for parking spaces, this in unregistered land. Other also have access over the land. Cars are being dumped on all areas of this land which caused obstructions to this access and this has started since the showroom opened.
- Application is inaccurate and lacks detail,
- Vehicles parked on the forecourt degrade the appearance and character of the area.
- Parking restrictions in place on the road are ignored.
- The building has been painted a bold and imposing colour with excessive floodlighting (although this is not functioning).
- The business operations spill out onto the surrounding pavements,
- Noise from mechanical washing and polishing of vehicles, revving engines and car alarms and congregation of staff and customers results in a loss of amenity,
- The business operates outside of the hours suggested and car sales during the hours of darkness can be intimidating.
- Previous uses maintained the forecourt free of vehicles,
- Due to the change of use and access from Market street it should not be included as part of the employment land,
- The change of access has intensified the use of space which is imposing and out of character for the area,
- Visibility is poor when accessing the forecourt and vehicles are regularly manoeuvred around the site which harms highway safety,
- Vehicles parked in front of the building regularly hold up traffic causing congestion and noise disturbance,
- The defined parking area is inaccurate and is sporadic and used by others and for stock overspill,
- There is a fire risk from a large number of vehicles parked in the building,
- Car washing takes place outside with water running into open drains,
- The use of the site differs from what is submitted in the application,

Consultee	Comment
DCC Highways Authority	No highway objections in principle to the proposals given the former use of the site, availability of associated parking and existing on street parking restrictions in the vicinity.
HPBC Conservation Officer	No comments
Severn Trent Water	No representations received
Chapel en le Frith Parish Council	Object. The Committee request HPBC Planning Officers perform a site visit due to concerns over safety for pedestrians and road users at the busy Sheffield Road junction.
Environmental Health	<p>No objection to the proposed development subject to the conditions set out below;</p> <p>1. Drainage Survey Within 3 months of the date of this approval, a survey report of the drainage/sewerage system utilised shall be approved in writing by the LPA. The report shall include a scheme of works to prevent pollution of controlled waters. The approved scheme shall be implemented within 3 months of being approved and shall be maintained throughout the life of the development. The cleaning and maintenance of vehicles shall not take place except in areas identified within the approved scheme.</p> <p>2. Overspray There shall be no visible overspray of water beyond the site boundary, associated with any car wash or pressure washer used on site.</p>

Environment Agency	The site is located within flood zone 1 therefore we have no fluvial flood zone concerns. The access does cross Black Brook although there will be no changes to this so there will be no added impact on the Brook. There are no other environmental concerns with the proposals and we have no further comments to make.
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7. POLICY AND PLANNING BALANCE

Planning Policies

- 7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the Chapel-en-le-Frith Neighbourhood Plan 2013-2028 and the adopted High Peak Local Plan 2016.
- 7.3 Other material considerations include the revised National Planning Policy Framework (NPPF), Supplementary Design Guidance, and National Planning Policy Guidance (NPPG). The applicable contents of the revised Framework will be referenced within the relevant sections of the officer report as detailed below.
- 7.4 Achieving sustainable development sits at the heart of the Framework as referred to within paragraphs 10 and 11. This requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental where they are to be applied to local circumstances of character, need and opportunity as follows:
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of

homes can be provided to meet the needs of the present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well being; and,

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making the effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 7.5 Paragraph 11 of the Framework requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means approving development proposals that accord with an up-to-date development plan without delay.
- 7.6 Section 6 of the Framework aims to build a strong and competitive economy. Paragraph 80 places significant weight on the need to support economic growth and productivity taking into account both local business needs and wider opportunities for development.
- 7.7 Adopted LP (Local Plan) Policy S1a establishes a presumption in favour of sustainable development as contained within the Framework.

Principle of Development

- 7.8 The site is situated within an existing area allocated for employment uses. Policy EP2 of the Neighbourhood plan (NP) provides support for proposals which lead to the improvement, modernisation or upgrading of employment sites subject to there being no adverse impact on neighbours.
- 7.9 Policy EP5 of the NP highlights site specific requirements for allocated employment land which in this case are;
 - No unacceptable impact on neighbouring properties through noise, vibration, smell, smoke, dust, fumes, lighting, traffic and other disturbance and no unacceptable impact on residential amenity including hours of operation,
 - Minimisation of opportunities for crime and anti-social behaviour,
 - Improving the access from either Sheffield or Buxton Road,
 - Protection of neighbouring historic Peak Forest Tramway in the form of a buffering zone.
- 7.10 Local Plan policy E1 supports new business and industrial developments in sustainable locations that contribute towards the creation and retention of a wide range of jobs, education and training opportunities. This is achieved by, amongst other matters, protecting

employment allocations to ensure development does not result in the loss of land or buildings from employment use.

- 7.11 This site forms a part of an allocated employment site within the neighbourhood plan. The car sales garage has created 3 full time equivalent jobs and so supports employment generation and keeps the land and buildings within an economic use. The proposal is therefore considered acceptable in principle and in accordance with site specific policies EP2 and EP5 of the Neighbourhood plan and policy E1 of the Local plan.
- 7.12 Other relevant policies include LP Policy EQ7 which seeks to conserve and enhance conservation areas and other heritage assets, LP Policy EQ6 which requires that development reflects local character and achieves a high standard of amenity and LP Policy CF6 which seeks to ensure that developments can be accessed in a safe and sustainable manner.

Impact on Conservation area/ Design

- 7.13 Section 16 of the NPPF seeks to conserve heritage assets in a manner appropriate to their significance. This is echoed within LP policy EQ7.
- 7.14 Paragraph 192 of the NPPF sets out that when determining planning applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 7.15 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.16 LP policy EQ7 requires proposals that affect a heritage asset and / or its setting to demonstrate how the proposal has taken account of design, form, scale, mass, use of traditional materials and detailing, siting and views away from and towards the heritage asset in order to ensure that the design is sympathetic and minimises harm to the asset.
- 7.17 Section 12 of the NPPF places great importance on good design and states that good design is a key aspect of sustainable development. LP Policies S1 and EQ6 set out the design principles for the Borough and require that all new development is well designed to respect and

contribute positively to the character, identity and context of the High Peaks townscapes in terms of scale, height, density and layout. Paragraph 127 of the NPPF states amongst other matters that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

- 7.18 The car sales showroom has been painted blue including matching doors with a white pin mounted lettering sign. There are no other external alterations proposed. Whilst this is a colour that is in contrast to the surrounding stone buildings, it is noted that there are other houses to the south which comprise both render and pebble dash. As such whilst natural stone is the dominant material, the visual appearance of the unit, which is set back from the road frontage is not considered harmful to the general character of the surrounding area. The use of the building for car sales is not considered to harm the character of the surrounding conservation area given its previous extant industrial use. The parked vehicles on the forecourt are visually prominent in the street scene but are set back slightly from the footway. The presence of vehicles in front of the building is not considered to materially harm the appearance of the area due to its proximity to the existing open industrial land to the north east of the site and its proximity to existing commercial premises on Sheffield Road that lend to its mixed character. The additional customer/staff parking area is located within open industrial land whereby the precedent for parked vehicles is established.
- 7.19 The car sales showroom is not therefore considered to harm the surrounding Conservation Area to which this site forms a part and is therefore in accordance with Section 16 of the NPPF and LP policies EQ6 and EQ7 in this regard.

Residential Amenity

- 7.20 LP Policy EQ6 stipulates that development should achieve a satisfactory relationship to adjacent development and should not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity. Similarly, NPPF para 127(f) requires a high standard of amenity for existing and future users.
- 7.21 LP Policy EQ10 states that the Council will protect people and the environment from unsafe, unhealthy and polluted environments by ensuring development avoid potential adverse effects by imposing planning conditions that mitigate and strictly control issues such as noise and light intrusion.
- 7.22 Paragraph 180 of the NPPF highlights that planning decisions should ensure that new development is appropriate for its location through

mitigating and reducing noise impacts and limiting light pollution from artificial light on local amenity.

- 7.23 The use of the building and forecourt is not considered to cause undue harm to the amenity of neighbouring properties by virtue of an increase in general activity or noise and disturbance as this is a former industrial building within an allocated employment site. The hours of operation are considered appropriate within this location.
- 7.24 Residents have raised concerns about noise from mechanical vehicles washing/polishing and from vehicle alarms/revving on the site. The site is an extant industrial building lying in close proximity to other industrial operations and the busy Market Street and Sheffield Road junction. As such it is reasonable to expect a certain level noise and activity given the location of the site. Concerns are also raised about staff and customers congregating to the front of the building.
- 7.25 The use of the forecourt area is likely to have introduced activity to the front of the premises which may not have previously been apparent in its former occupation. However, the scale of the car showroom is not considered excessive or of a size that would result in an unacceptable number of vehicles being operated/cleaned/in use at any one time or of a scale that would attract large numbers of people that would create an unacceptable amount of noise within the development boundary.
- 7.26 In any event, unacceptable levels of noise are dealt with by other legislative powers such as environmental health. With respect to the comments regarding flood lighting, a security light has been fitted to the front of the building, this in itself would not require planning consent, being *de minimis*.
- 7.27 Subject to the conditions limiting opening hours it is considered that the application would not result in any harm to the public amenity or residential amenity of neighbouring properties, in line with LP Policies EQ6 and EQ10 and paragraphs 127 and 180 of the NPPF.

Access, Parking Provision and Highway Safety

- 7.28 LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner. This policy requires new development to be integrated within existing or proposed infrastructure, to not lead to an increase in on street parking to the detriment of the free and safe flow of traffic, and provides details of proposed parking provision based on an assessment of parking need and the impact on the surrounding road network.
- 7.29 Paragraph 108 of the NPPF states that in assessing applications for development, a safe and suitable access to the site should be achieved for all users. Paragraph 109 goes on to state that development should only be prevented or refused on highway grounds if there would be an

unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 7.30 The submitted plans show that in addition to the parking of display vehicles to the forecourt of the building, an additional 10 off road parking spaces are to be provided to the north east of the site and within the confines of the adjacent industrial site. Appendix 1 of the Local Plan sets out that 1 space per 40 sq. m of floor area should be provided for the sale and display of motor vehicles. In this case, the floor area of the showroom and ancillary office space amounts to 218 sq. m, thereby requiring a total of 5 parking spaces. The proposed level car parking spaces therefore more than meets the Councils car parking guidance. The revised plans have shown that this parking area can be appropriately sign posted to provide clarity.
- 7.31 Concern was raised at the previous meeting about the proposed footpath / cycle route to link to the former tramway indicated in the Neighbourhood Plan. However, it is clear by comparing the proposals map with the submitted parking plan, that the spaces would not infringe on the proposed route. As such the application scheme would not impact on the future delivery of this proposal. Furthermore, given that this is an existing parking / turning / manoeuvring area associated with the industrial estate it is not considered that the parking of vehicles in this location would have a materially greater impact on the deliverability of the new route or safety of future users than the existing uses.
- 7.32 The Parish Council are concerned about the safety of highway users at the Sheffield Road Junction. Residents are also concerned about the flouting of parking restrictions and vehicles parked on the public footway, creating congestion. The Highway Authority have not raised objection to the development based on the former use of the building and its associated parking. Vehicles parked on the forecourt are set back from the footway and there are highway restrictions in place in front of the building and along Market Street and Sheffield Road. Whilst it has been noted that vehicles do park on adjacent footways, this is a matter for other legislation, including the highway authority and Police, to address, where vehicles are not adhering to highway restrictions. Whilst the access point to Market Street may not have been in use by previous occupiers, this is not a newly created highway access. As such there are not considered to be any adverse impacts to highway safety, in accordance with LP Policy EQ6 and paragraph 108 of the NPPF.

Drainage

- 7.33 LP policy seeks to protect people and the environment from unsafe, unhealth and polluted environments. Concerns have been raised regarding drainage on site particularly from washing vehicles on the forecourt. The Environment agency have not raised any objection to the proposals and the comments from Severn Trent have not been

forthcoming suggesting the application does not pose a concern for them.

- 7.34 Environmental Health have recommended a drainage survey be submitted along with a scheme to prevent pollution. The applicant has provided a plan showing the drains on site and have confirmed that a valeting company are responsible for cleaning the cars with only occasional car washing on the forecourt as necessary. The site forecourt drains within the site and not on to the public highway.
- 7.35 In addition to the comments from the applicant, it must be made clear this is a car garage not a car wash. It is reasonable to expect that car washing would be occasional and ancillary to the car sales. It is therefore considered that a drainage survey and pollution prevention scheme is unreasonable for the car garage and would not meet the tests of para 57 of the NPPF in that it would not be fair or reasonable or related in scale or kind to the development.
- 7.36 Similarly, it is considered that a condition preventing water spray outside of the site would be unreasonable and difficult to enforce and on this basis no further conditions regarding drainage or water spray are recommended.

Other Matters

- 7.37 An objection has been raised about the ownership of the area designated for parking. Land ownership disputes are not a material consideration for this application provided appropriate notice has been served on the correct landowner. The applicant has stated that the land is within the same ownership as the building and has signed certificate B to that affect. The applicant has been given the opportunity to comment on the land ownership matters and any response will be reported to Members on the update sheet. Any concerns relating to right of access over any part of the application is a civil matter between the parties.
- 7.38 Concerns have also been raised regarding fire risk from vehicles parked within the building. This would be a matter for other legislative bodies.

8. Planning balance & Conclusion

- 8.1 The application site is located in the development boundary and comprises the change of use of an established employment site. The car sales showroom has provided jobs and has good access to the A6 and is close to other commercial uses. Accordingly, the reuse of the building would contribute towards the retention of employment opportunities and is support by policies in both the Neighbourhood Plan and Local Plans.

- 8.2 Whilst the concerns of the Parish Council and objectors are noted in respect to highway safety, the parking of vehicles which lie outside of the planning application is a matter for other local agencies to address. The proposals identify a sufficient level of off road parking to serve the development and therefore the development does not raise any highway safety concerns.
- 8.3 The development proposals do not give rise to any harm to the significance of the conservation area. Although the building has been painted blue and does contrast with the materials of the surrounding buildings, it is considered to sustain the general character of the heritage asset. In addition, it is acknowledged that the development would enable the continued retention of jobs at the site.
- 8.4 With the safeguard of conditions to restrict hours of operation which would protect residential amenity during unsociable hours, the use is considered acceptable and is a sustainable form of development under the terms of the Framework and relevant Neighbourhood and Local Plan Policies.
- 8.5 In accordance with NPPF paragraph 11, the application is hereby recommended for approval.

8. RECOMMENDATIONS

A. APPROVE subject to the following Conditions;

Condition Number	Brief description	Comment
AP01	Approved plans	
COM10	Hours of use restricted to 8:00 to 18:00 Monday – Saturday and 10:00 to 1600 Sunday and Bank Holidays.	

B. In the event of any changes being needed to the wording of the Committee’s decision (such as to delete, vary or add conditions/informative/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee’s decision.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer

has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

Site plan

