

Item No. 1

Application Reference Number P/20/1079/2

Application Type: Full **Date Valid:** 07/07/2020
Applicant: Mr M Fisher
Proposal: Retention of use of building as warehousing/storage use (Use Class B8) without compliance with Conditions 2 and 3 of planning permission reference P/02/2587/2 relating to who can operate the site and the storage of goods on open areas.
Location: Hoton Store
Wymeswold Road
Hoton
Loughborough
Parish: Hoton **Ward:** The Wolds
Case Officer: Deborah Liggins **Tel No:** 07864 603401

This item is referred to Plans Committee at the request of Councillor Bokor who has a number of concerns regarding, lack of highway safety, lack of cyclist safety and, increase in large logistic HGV movements as the access only through the narrow village streets in Hoton & Wymeswold. She feels this would be an inappropriate development in open countryside which would change of visual landscaping from A6006.

Description of the Site

The application site is a former agricultural building which now operates as a warehouse/storage use, following the grant of planning permission under reference P/02/2587/2. The site is located approximately 1.3km from the centre of Hoton and is within countryside between Hoton and Wymeswold. The application building is a large permanent structure located 430m from and north of Wymeswold Road and which is accessed via a shared driveway which also serves rural dwellings. A separate access drive approximately 170m to the east serves the showman's storage site and associated residential caravan 'Hoton Park' site to the south east of the application building.

Boundary	Adjacent land use
South	New Covert Farm House approximately 170m from the front of the application building. On the intervening land are rows of metal storage containers, a bund and landscaping, which appear to be on land outside the applicant's control and which are the subject of separate investigations by the Council's Planning Enforcement Team.
North	Woodland and agricultural land beyond
East & South-east	Hoton Park residential caravan site and showman's storage land and yard.
west	New Covert Barn dwelling and agricultural land

The site features a large concrete apron used for parking of staff vehicles and as a turning area for lorries and to the eastern boundary are portacabins used as offices. The temporary planning permission for these expired at the end of March 2020 and the applicant is aware that the 2 remaining office buildings (1 x single storey and 1 x 2 storey office building) are unauthorised. It is anticipated an application to retain these will be submitted shortly.

The site frontage also features a regular stack of around 20 empty pallets which are surplus to requirements following loading and unloading of goods and at present, this is the only storage which takes place on the open areas of the site in breach of Condition 3 of P/02/2587/2.

Description of the Application

The application is for the retention of use of building as warehousing/storage use (Use Class B8) without compliance with Conditions 2 and 3 of planning permission reference P/02/2587/2 relating to who can operate the site and the storage of goods on open areas.

Planning permission was granted by Plans Committee for the change of use of the building from an agricultural grain and timber store to a general warehousing/storage use under application reference P/02/2587/2. At the time members considered the circumstances of the applicant – a Mr I Fisher. The committee report set out the history of the site and the expected traffic movements to and from the site on a typical day were reported to be those arising from 3 staff vehicles and up to 8 additional vehicles, including cars, vans and lorries per day. Both Hoton and Wymeswold Parish Councils had no objection in principal to the proposal at that time but were concerned that if ownership changed, traffic movements could increase. It was considered at the time that, because of its previously unrestricted agricultural use, the imposition of a condition limiting the number of vehicles which could travel to and from the site would not meet the legal tests for imposing conditions. Instead, Condition 2 was imposed on the planning permission to limit it to the benefit of the applicant only instead of running with the land as this would provide an opportunity for the local planning authority to re-assess the situation should it occur. Condition No. 3 was also imposed to prevent any open storage of any description from taking place on the open land within the curtilage of the site in order that the site did not fall into an untidy condition, and in the interests of the character and appearance of the countryside.

Since that planning permission was granted, it has transpired that the unit has been internally subdivided to enable 2 businesses to operate from the building, none of which are owned or operated by Mr Fisher. One half of the building houses a business storing books for supply to discount book shops and the other half is a business supplying foodstuffs and products to the hot-food takeaway or catering businesses. Both units are operated as warehouses with goods being delivered for later distribution to smaller outlets. There is no retail activity from the site and no opportunity for sales direct to the public.

The main powers granted to local planning authorities to impose conditions are set out in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Section 70(1)(a) of the Act enables the local planning authority, in granting planning permission, to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

The applicant is therefore seeking permission to allow the B8 use of the building to be operated by others and to allow some outside storage to take place.

This application is made under section 73a of the Town and Country Planning Act 1990; which allows for the retention of development that is not in compliance with conditions upon which planning permission was previously granted. Any application granted under section 73 takes effect as a new independent permission. Members are reminded that whilst the application seeks to remove or vary 2 planning conditions, the opportunity exists to impose additional conditions to ameliorate any harms arising from their removal/variation or to address any material changes, (such as to policy), since the original consent was given. It is not, however, an opportunity to impose new unrelated conditions. Planning conditions therefore need to meet the necessary legal tests in operation as set out in legislation.

The application is accompanied by a supporting statement from the applicant's agent setting out that Conditions 2 and 3 of the original planning permission are not considered to be reasonable or necessary in that they no longer meet the legal tests as re-iterated in the Planning Practice Guidance that accompanies the National Planning Policy Framework. These tests require planning conditions to be:-

- Necessary
- Relevant to planning
- Relevant to the development to be permitted
- Enforceable
- Precise and
- Reasonable in all other respects.

The applicant considers that if planning permission is granted and limited to a particular company, this would be inappropriate as its shares could be transferred to other persons without affecting the legal personality of the company but which could then, presumably operate quite differently to the original beneficiary. In this case planning permission was granted to an individual who has chosen to subdivide the unit and let it to 2 unrelated businesses over which he has no interests extending beyond landlord concerns.

The application is also accompanied by a Transport Technical Note which sets out typical expected trip generation arising from the use on a typical business day and based on averages taken from existing comparable premises around the country. This document concludes that sufficient parking provision exists within the site and that the existing access provides a safe and suitable access to serve activities which would not give rise to severe impacts to the surrounding highway network. The document explains that 24 car parking spaces are provided within the site and, based on the size of the unit, this would accord with the Leicestershire Highways Design Guide. There is also unmarked parking provision for circa 3 HGV's to park overnight. The document explains that under the previous agricultural use and during peak season, the site could have generated over 100 daily vehicle movements including staff cars and HGVs. Following the grant of P/02/2587/2, the applicant operated the site with around 10 office staff and 14 warehouse staff resulting in up to 24 two-way daily vehicle trips at peak times. In addition around 3 containers would be unloaded each day which resulted in around 10 two way HGV movements per day.

The potential traffic movements to and from the site, based on the submitted TRICS data are anticipated to be 17 two way trips in the morning peak and 12 two way trips in the

evening peak, demonstrating an overall reduction in vehicular activity over the consented use.

In terms of the previous limitations on outside storage, the applicant's statement describes the site as being visually well contained, owing to mature vegetation and strong boundary treatments, and when coupled with the adjacent land uses, any open storage on the site would not be incongruous or out of character with the context of the site. It is also noted that the site is not covered by any landscape quality designations. A plan received on 8th September 2020 limits the area of storage to around 110 sq.m to the eastern side of the site, which the applicant indicated would be flexibly used for outside storage, parking or circulation space as required, and if acceptable, a condition could be attached to any grant of planning permission, limiting the outside storage to this area and a suggested height limit of 3m is also acceptable to the applicant.

The statement concludes that the applicant considers these conditions are a hindrance to rural economic activity when national policy seeks to support it and that the conditions would eliminate current barriers to development which would otherwise allow the site to continue to provide employment opportunities.

The proposal therefore seeks planning permission to continue the use of the building as a general warehouse/storage use but without compliance with Conditions 2 and 3 which would allow anyone to benefit from the planning permission with outside storage restricted to a small part of the overall site.

Development Plan Policies

Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material planning considerations indicate otherwise. The development plan for Charnwood currently comprises the Charnwood Local Plan (2011-2028) Core Strategy and the saved policies of the Borough of Charnwood Local Plan. The policies below are considered relevant to the determination of

Charnwood Local Plan 2011-2028 Core Strategy (adopted 9 November 2015)

Policy CS1 - Development Strategy - sets out the development strategy for the Borough. This focuses housing development in locations around the Leicester Principal Urban Area and Loughborough and Shepshed with three Sustainable Urban Extensions.

Policy CS2 – High Quality Design requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.

Policy CS10 – Rural Economic Development – sets out how the Borough Council will seek to maximise the potential of the rural economy. This involves the provision of new employment land and supporting the sustainable growth and expansion of businesses in rural areas both through the conversion of existing buildings and well-designed new

buildings and where the proposal is small scale and would not cause harm to the character and appearance of the countryside.

Policy CS11 – Landscape and Countryside - requires new development to protect landscape character and reinforce a sense of place. It supports rural residential development where it has a strong relationship to the operational requirements of agriculture, horticulture or forestry.

Policy CS17 – Sustainable Transport - seeks a 6% shift from travel by private car to sustainable modes by requiring major developments to provide access to key facilities by safe and well-lit routes for walking and cycling that are integrated with the wider green infrastructure network and by securing new and enhanced bus services where new development is more than 400m walk from an existing bus stop.

Policy CS25 – Presumption in Favour of Sustainable Development – sets out that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It pledges to work proactively with applicants to jointly find solutions to approve development wherever possible to secure improvements to the economic, social and environmental conditions in an area. Planning applications that accord with the policies in the Core Strategy will be approved without delay unless material considerations indicate otherwise.

Borough of Charnwood Local Plan (adopted 12 January 2004 (saved policies))

The saved policies relevant to this proposal include:

Policy ST/2 – Limits to Development - States that built development will be confined to allocated sites and other land within the Limits to Development identified on the proposals map, subject to specific exceptions.

Policy CT/1 – General Principles for Areas of Countryside, Green Wedge and Local Separation – states that development in these areas will be strictly controlled. Planning permission will be granted for the re-use and adaptation of rural buildings for uses suitable in scale and nature and small-scale built development where there would not be a significant adverse environmental impact and the proposal would (inter alia) be essential for the efficient long-term operation of agriculture, horticulture or forestry.

Policy CT/2 – Development in the Countryside – In the countryside, development which is acceptable in principle will be permitted where it would not harm the character and appearance of the countryside.

Policy EV/1 – Design - seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality

Policy TR/18 - indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities. The policy promotes residential parking standards to be used as the starting point in assessing the level of provision and represent the maximum level. The quantity of parking allowed

should reflect the proposed use and the location of development, the availability of public off-street parking; the current or potential accessibility by non-car modes and the scope for practical measures to significantly reduce the use of private car trips to and from a site.

Other Material considerations

National Planning Policy Framework (2019)

This confirms that planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) is a material consideration in planning decisions. The Framework contains a presumption in favour of sustainable development and defines 3 roles a development must fulfil in order to be sustainable:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment

Paragraph 8 identifies the economic and social roles of the planning system, both to build a strong responsive economy by ensuring land (and presumably buildings) are available in the right place at the right time, and supporting the health of the community by ensuring housing for present needs that has a high quality built environment, which encompasses social and cultural well-being.

Paragraph 10 states at the heart of the Framework is a presumption in favour of sustainable development.

Paragraph 11 sets out the presumption in favour of sustainable development and makes it clear that where there is an under-supply of housing land, the most important policies for the determination of housing proposals would be considered out of date.

Paragraphs 15-33 set out that the planning system should be genuinely plan-led and that succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities and a platform for local people to shape their surroundings. Paragraph 31 states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence.

Paragraph 38 indicates that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers should seek to approve applications for sustainable development where possible.

Paragraph 47 of the NPPF states that planning law requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 54 sets out that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 55 states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 80 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.

Paragraph 83 sets out how planning policies and decisions should support a prosperous rural economy and states that planning policies and decisions should enable the development and diversification of agricultural and other land-based businesses and sustainable tourism and leisure developments which respect the character of the countryside.

Paragraph 85 sets out that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

Paragraph 109 states 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.

Paragraph 180 requires that decisions on planning applications should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, including mitigating noise.

The Framework requires the planning decisions should, inter alia, create places that are safe, inclusive and accessible which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

In considering development proposals, it should be ensured that sustainable transport modes can be taken up, and that safe and suitable access to the site can be achieved for all users. Development should only be 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.

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Noise Policy Statement for England (2010)

The Noise Policy Statement for England was published on 15 March 2010. It sets out the long term vision of government noise policy, to promote good health and a good quality of life through the management of noise.

The Leicestershire Highways Design Guide (2018)

This is a guide for use by developers and published by Leicestershire County Council, the local highway authority, and provides information to developers and local planning authorities to assist in the design of road layouts in new development. The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.

The Crime and Disorder Act 1998

This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

The Draft Wolds (Burton on the Wolds, Cotes, Prestwold and Hoton) Neighbourhood Plan.

This is at an advanced stage and once 'made' the document will have statutory status and will form part of the development plan. The document covers the 2 parishes of Burton on the Wolds, Cotes and Prestwold and Hoton and sets out the key aspirations for the communities of those settlements in terms of preserving what it considered to be important and guiding new development up to 2028. The application site is included within the Plan area of the Neighbourhood plan.

It is considered that the document has considerable weight in decision making as it has been determined that the plan can now proceed to referendum. The Government has specifically altered the PPG to account for such instances where the plan can proceed to referendum but this is not possible due to Covid 19:

“What changes have been introduced to neighbourhood planning in response to the coronavirus (COVID-19) pandemic?”

The government has been clear that all members of society are required to adhere to guidance to help combat the spread of coronavirus (COVID-19). The guidance has implications for neighbourhood planning including: the referendum process; decision-making; oral representations for examinations; and public consultation. This planning guidance supersedes any relevant aspects of current guidance on neighbourhood planning, including in paragraphs 007, 056, 057, 061 and 081 until further notice.

Referendums: All neighbourhood planning referendums that have been recently cancelled, or are scheduled to take place, between 16 March 2020 and 5 May 2021 are postponed in line with the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 until 6 May 2021.

Decision-making: Where the local planning authority has issued a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012) detailing its intention to send a neighbourhood plan to referendum, that plan can be given significant weight in decision-making, so far as the plan is material to the application.”

Relevant policies in relation to the appeal proposal are:-

Policy WV1 – Landscape Character and Locally important views. This policy sets out that in the countryside, new development should conserve or enhance the character of the local landscape. Development proposals must demonstrate a number of criteria as appropriate, one of which is that landscape character has been protected with key landscape characteristics and sensitivities having been identified and addressed by the proposals. The policy goes on to identify important viewpoints within the villages, none of which are impacted by the proposal.

Planning Practice Guidance (2012) (as amended)

This was launched as a web based resource, and replaces a list of previous practice guidance documents and notes, as planning guidance for England and consolidates this guidance on various topics into one location and condenses previous guidance on various planning related issues. The document also sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

Landscape Character Assessment (2012)

The Borough of Charnwood Landscape Character Assessment 2012 explains that the Charnwood Forest Area of Landscape Character is the most complex of the landscape character areas in the Borough such that five sub-areas were identified within the Borough in the 2008

Hoton falls within the Wolds Landscape Character Area and this is an elevated gently rolling countryside of mixed farmland with small villages and isolated farms scattered across the landscape. The landscape, often uninterrupted by hedgerows often enables long reaching views from straight roads between villages and the lack of woodland and tree cover reinforces the landscapes expansive quality. It is a largely arable landscape that has been altered by modern farming practices, leading to loss of ridge and furrow field systems and hedgerows. There is limited woodland cover. This combined with the large field systems

and managed hedgerows, creates an expansive character with often long views from ridges between settlements. Wide grass verges are characteristic of this landscape.

Draft Charnwood Local Plan 2019-2036

The Draft Local Plan sets out the Council's preferred options for draft policies which are yet to be tested through an Examination in Public before they can become part of the development plan for Charnwood. The policies therefore carry limited weight at the current time. These include policies which would seek to protect the intrinsic beauty and character of the countryside and direct developments to appropriate locations.

Relevant Planning History

Reference	Description	Decision	Date
P/94/1301/2	Retention of use of former grain store for the storage of timber and forestry and agricultural products	Granted conditionally	23/06/1994
P/02/2587/2	Change of use of building from agricultural grain and timber store to general warehousing/storage use	Granted conditionally	12/11/2002
P/08/2295/2	Retention of 4 portacabins on a temporary basis (5 years) on warehouse site	Granted conditionally	08/10/2008
P/10/0459/2	Removal of condition 2 of planning permission P/02/2587/2	Withdrawn	07/06/2010
P/14/2391/2	Retention of three portacabins on a temporary basis (5 years)	Granted conditionally	27/01/2015

Responses of Statutory Consultees

Hoton Parish Council objects to the proposed removal of either of the conditions stating the location is not suitable for business traffic as it lies on a weight restricted road. The site is also unsustainably located in transport terms with staff having to rely on the private car. The proposal would lead to significantly more HGV's using the site. There would be severe impact to the safety of the surrounding highway network and the requirement for a safe and suitable access should not only be applied to the existing access road and junction with Wymeswold Road but should also include an assessment of how vehicles will reach that point and the entrance to the yard to the front of the warehouse. No analysis has taken place about the suitability of the junction of Wymeswold Road with the A60 in Hoton village, where large vehicles often mount the pavement, jeopardizing the safety of pedestrians, horse riders and cyclists and causing amenity issues in terms of noise and vibration for householders.

The Parish Council considers that the proposal would be prejudicial to the safety of the occupiers of New Covert dwelling which has a garden and curtilage open to the access drive serving the site. The Parish Council also considered that the submitted information about trip generation is inaccurate in that the possible 157 trips per day does not indicate how many of these would be HGV's and that agricultural trip generation from nearly 25 years ago should not be compared to today where roads are more heavily used. The proposal

would, because of its poor access to public transport, be contrary to the Council's strategy to reduce carbon emissions. Planning permission was originally granted because of the small scale of operations at the time which did not adversely impact on the area, neighbouring villages and roads. The proposal now would lead to unrestricted use of the site with no limit on vehicular activity or the type of vehicles involved and the Parish Council considers that the use would be more appropriately located on an industrial estate.

The Parish Council also contends that the entrance to the actual yard lacks visibility for other users of the private road where children may play. It also correctly states that if unrestricted outside storage is permitted, this will impact on the availability of parking and maneuvering space and also represent an unwarranted intensification of development that has an adverse impact on the intrinsic character of the countryside. The applicant has provided no details of what they intend to store in the open areas, nor to what extent or height.

Allowing the removal of Condition 3 would lead to the open storage of unspecified materials which would be unsightly and damaging to the appearance of the countryside.

The Council's Environmental Health Service – comments that although a complaint was received in 2019 about HGV movement noise from a resident of Hoton Park, this appears to be unrelated to the application site. However, given the nature of the locality, the proposed activities and the proximity of residential uses it would be prudent to secure planning conditions that would minimize potential or actual noise impacts. It is therefore recommended that an hours restriction be placed to regulate HGV movements and activities, including the operation of associated vehicle mounted chiller plant, vehicle loading or unloading (including the operation of audible movement alarms) to between the hours of 0600-2100 hours on any day.

The Local Highway Authority - has no objections to the removal of Condition 2 and makes no comment on the removal of Condition 3.

Other Comments Received

Councillor Bokor – has raised a number of concerns which are summarised below;

- Lack of highway safety
- Lack of cyclist safety
- Increase of large logistic HGV movements with access only through narrow village streets in Hoton & Wymeswold
- Inappropriate development in open countryside
- Change of visual landscaping from A6006

Councillor Bokor suggests that the position of the site makes activities there less obvious and more difficult for the Council to monitor and considers that it would have been preferable if the application had come forward as a new planning application rather than a variation of an existing planning permission and associated conditions.

Concerns have been received from a number of local residents from the addresses detailed below;

Hoton Park – 6, 7, 20

Wymeswold Road, Hoton – 1, 3, 5, 7, 18, 23, 25, 28, 29

+ 3 others (address not supplied)

These local residents have raised a number of concerns which have been summarised below:-

- Noise from the site including in the night and loud vehicle reversing warnings at all times of the day or night.
- Noise from refrigeration units parking overnight and from slamming doors
- Activities could operate 24/7
- Loss of light to house windows arising from HGV vehicles paused within Wymeswold Road whilst allowing oncoming traffic to pass & associated loss of privacy from the height of passing lorry cabs.
- Increase in heavy goods vehicles using Wymeswold Road in Hoton and the junction with the A60 & associated noise and pollution. The road here is narrow with vehicles frequently mounting the pavement and poor forward visibility.
- Wymeswold Road in Hoton village is not suitable for additional heavy goods vehicle use and additional lorries would cause increased dangers to pedestrians, cyclists and horse riders.
- The site is unsustainably located in terms of alternative modes of transport with no facilities for workers within Hoton.
- Wymeswold Road is a weight restricted road to 7.5 tonnes with no footway between the villages of Hoton and Wymeswold.
- Wymeswold Road would become blocked to emergency services through increased HGV's using it.
- Misdirected lorries using the access drive to Hoton Park instead
- Increased soil compaction on the site
- Risk of bird strike from lorries
- The site is visible from the elevated A6006 between Rempstone and Wymeswold and by walkers on the long distance footpath, the Cross Britain Way.
- The site appears to be used as a cash and carry
- Outside storage of items may cause smell or hazards to health and safety if chemicals are involved.

Any non-planning matters which have been raised:

- Existing speed and weight restrictions on Wymeswold Road are not observed – the local planning authority is not responsible for enforcing these matters.
- Speed bumps or cameras should be installed in the village – this is not within remit of the local planning authority to provide and would be disproportionate works for the applicant to be required to provide and such a condition would not meet the necessary legal tests.
- Damage to property caused by vibrations of heavy goods vehicles travelling through Hoton – this is a private matter, possibly resolved through the involvement of relevant insurers.
- The proposal would devalue homes – this is not a planning consideration which is determinative in the consideration of the current proposal.
- Alternative premises would be more suitable – this is not the proposal before the Council for consideration.

- There is no grit bin in the centre of Hoton and pavements become hazardous in wintry weather – this is unrelated to the proposal.
- Retrospective planning applications should not be approved – applications should be determined on their merits.

Consideration of the Planning Issues

The key issues in considering this application are considered to be:

- The principle of the Development
- Impact on Landscape Character
- Highways and Parking
- Impact on Amenities

The principle of the Development

The starting point for decision making on all planning applications is that they must be made in accordance with the development plan unless material considerations indicate otherwise. Policies in the adopted Core Strategy and the saved policies in the Charnwood Local Plan are therefore the starting point for consideration.

The site is located in the countryside in what might be regarded as an unsustainable location in transport terms and already benefits from a general warehousing/storage (B8 use) following the grant of planning permission under P/02/2587/2. The relevant planning policy has changed since the previous planning permission was granted in 2002 but guidance in the National Planning Policy Framework and Policy CS10 support the diversification of the rural economy and promote the sustainable growth and expansion of rural businesses, provided that in all cases the scale and character of the development is designed and operated so as to cause no detriment to the character and appearance of the countryside.

The existing B8 use (although now operated by 2 businesses) is therefore still considered acceptable in this location and a change of use and additional building footprint is not proposed and the development is acceptable in principle subject to consideration of the impact on the character and appearance of the countryside below.

Impact on Landscape Character

Policies CS1 and ST/2 place the site outside the Limits to Development and within the countryside. Policies CS11 and CS/1 seek to protect the character and appearance of the undeveloped countryside but allows for small-scale development which meet specific criteria. Policy C10 supports the growth and expansion of businesses in rural areas and sets out that in all cases, the scale and character of the development is designed and operated so as to cause no detriment to the character and appearance of the countryside.

The internal subdivision of the unit did not require planning permission and did not result in any external alterations to the appearance of the building. An element of the proposal seeks the removal of the current prohibition on the use of outside areas for open storage within the application site area. Inevitably, the nature of the use is such that disused or surplus pallets have been stored temporarily in a small area of the site and this is in breach of

Condition 3 of planning permission P/02/2587/2. To not restrict outside storage at the site at all could result in unlimited outdoor storage of any description and it is considered that this could present not only visual impacts to the character and appearance of the countryside, but could also reduce the space available for car or lorry parking and turning.

It is therefore considered necessary to limit the scope of any outside storage and the plan received on 8th September shows this proposed to a small area of the site (approximately 110 sq.m.) located close to the building and opposite the existing office structures. This area is screened from views from outside of the site by woodland to the north and east and is significantly distanced from any permanent dwellings. It is material to note that to the east is a large showman's site with extensive areas of outdoor storage of large equipment, vehicles and caravans and it is arguable that the limited storage proposed by the applicant would have no worse an impact on landscape character than the adjacent land use.

It is considered that the total removal of Condition 3 of the original planning permission would result in unrestricted outdoor storage which could be visually harmful to the character and appearance of the countryside. It is therefore recommended that the imposition of a new planning condition which would limit the height and area of storage to be permitted would be reasonable, would ensure sufficient car and lorry space is retained and would meet the necessary legal tests. Such a condition is set out in the recommendations section of this report and in this way, it is considered that the proposal would accord with Policies CS11, CS1 and CS2 of the Core Strategy (2015), Saved Policies EV/1 and CT/2 of the local Plan (2004) and Policy WV1 of the draft neighbourhood plan.

Highways and Parking

The site is accessed via a 23.5m wide simple bell mouth junction, and is then served by a 4.5m wide access road. The access as it currently stands can be considered to be substandard when compared to standards listed in Table DG2 of Part 3 of the Leicestershire Highways Design Guide.

However, the Highway Authority has reviewed the submitted information and made comparisons between trips likely to be associated with the already consented B8 warehouse and the potential trip generation assessments in the submitted data. The consented trip rates resulted in up to 24 two-way staff vehicle trips during the morning and evening peak periods. In addition 3 containers would typically be unloaded each day which would result in 10 two-way HGV movements per day.

The local highway authority is therefore satisfied with the criteria selected by the applicant as part of interrogating the TRICS (Trip Rate Information Computer System) database. Based on the submitted data, the proposal would be likely to generate 17 two way trips in the morning peak and 12 two-way trips in the evening peak and this equates to a net reduction of 7 two way trips in the morning peak and 12 two way trips in the evening peak as compared to when permission was granted originally, on a personal basis.

Consequently, given the anticipated net reduction in vehicle movements to and from the site, the local highway authority does not seek any improvements to the current access junction with Wymeswold Road or the access road itself.

In terms of the quantum of car parking, there is a total of 24 car parking spaces provided on site with unmarked parking provision for circa 3 HGV's to park overnight and these are considered to accord with standards set out in the Leicestershire Highways Design Guide. In this way, the proposal also accords with Policy TR/18 of the Borough of Charnwood Local Plan.

Whilst local residents express concerns about the possibility of increased heavy goods vehicles through Hoton, the applicant has demonstrated to the satisfaction of the local highway authority that the proposal would not result in residual cumulative highway impacts that could be regarded as 'severe' and the proposal would therefore accord with Paragraph 109 of the National Planning Policy Framework.

Having regard to the above, it is considered that the proposal accords with the National Planning Policy Framework and saved Policy TR/18 of the adopted Local Plan and that severe highway impacts as described in Paragraph 109 of the National Planning Policy Framework would not be caused by the development.

The National Planning Policy Framework requires that safe and suitable access to the site can be achieved for all users and that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. Given the characteristics of the local road network and the application site, together with the convenient location of the property to facilities and services, it is considered that the existing on-site parking and turning provision would not be contrary to the National Planning Policy Framework or saved Policy TR/18 of the adopted Local Plan.

Impact on Amenities

The current B8 use at the site is unrestricted in terms of hours of operation or the type and frequency of vehicle movements. When determining the original application in 2002 it was considered that the imposition of a condition which limited the number of vehicles visiting the site, would not meet the necessary legal tests, given the site's previous unrestricted agricultural use. Instead, it was considered that a personal permission would provide a means of restricting the use and would afford the local planning authority to review the situation, should it arise. The applicant is therefore seeking to remove the personal condition previously imposed to allow operation of the use by any persons or company, within the scope of the B8 use category. Indeed, the occupation of the units by other companies is currently in breach of Condition 2 of the 2002 planning permission.

Whilst the building continues to be used as 2 warehouse/storage units (the authorised use), and the highway authority is satisfied about the traffic impacts of the proposal. Residents raise concerns that the new businesses have caused some additional amenity impacts to near residential neighbours that were not originally envisaged. In particular, residents of Hoton Park complain of noise through the night from vehicle reversing warnings and from refrigeration units attached to lorries which are left running overnight and which generate noise. The Council's Environmental Health Service recommends that the imposition of a planning condition limiting the hours of heavy goods vehicle movements and associated noise be limited to between 0600 and 2100 hours on any day. Such a condition is therefore produced as Condition 3 below and it is considered that this would be sufficient to overcome

existing noise issues. In this way, the proposal accords with Policies CS2 and EV/1 which seeks to safeguard the amenities of adjoining properties.

Conclusion

Accordingly, having regard to Policies CS1, CS10, CS11, EV/1, ST/2 and TR/18, it is concluded that the proposal, would be acceptable in highways, amenity and appearance terms and that any harms could be mitigated by the suggested conditions. It is recommended that planning is granted conditionally.

RECOMMENDATION:-

Grant Conditionally

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
SK01 - Proposed block plan received 8th September 2020.

REASON: To define the terms of the planning permission.

- 2 The storage of materials, products or waste items shall be limited to the hatched area of the site as shown on drawing No. SK01 received by the local planning authority on 8th September 2020 and at a height not exceeding 3 metres at any time.

REASON: To make sure that the use does not become unsightly and/or a source of annoyance to nearby residents.

- 3 There shall be no heavy goods vehicle movements to, from or within the site or loading/unloading activities, including the operation of associated vehicle mounted chiller plant or audible movement alarms, other than between 0600-2100 hours on any day.

REASON: In order that the use does not become a source of annoyance to nearby residents; in the interests of residential amenity.

The following advice notes will be attached to a decision

- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS1, CS2, CS10, CS11, CS17, and CS25 of the Charnwood Local Plan (2011-2028) Core Strategy and Policies ST/2, CT/1, CT/2, EV/1 and TR/18 of the Borough of Charnwood Local Plan have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies.

- 2 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
- 3 The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process. This led to improvements to the scheme to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 4 Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.

