

**PLANNING APPLICATIONS COMMITTEE
23rd AUGUST 2018**

APPLICATION NO. **DATE VALID**

17/P3629 26/10/2017

Address/Site: 168a London Road
Morden
Surrey
SM4 5AT

Ward: Merton Park

Proposal: Continued use of vehicle sales yard (sui generis) involving relocation within the site.

Drawing No.'s: TP11B, TP13 and TP10.

Contact Officer: Jock Farrow (020 8545 3114)

RECOMMENDATION

Grant planning permission subject to conditions.

CHECKLIST INFORMATION

- S106: No
- Is a screening opinion required: No
- Is an Environmental Statement required: No
- Has an Environmental Statement been submitted: No
- Press notice: No
- Site notice: Yes
- Design Review Panel consulted: No
- Number of neighbours consulted: 25
- External consultations: 1
- Conservation area: No
- Listed building: No
- Tree protection orders: No
- Controlled Parking Zone: No
- Flood zone: No

1. INTRODUCTION

1.1 This application is being brought to the Planning Applications Committee for determination due to the nature and number of the objections received.

1.2 This application is one of three applications which were submitted concurrently and which relate to various parcels of the land making up the 168

London Road site; the other two applications were refused by the Planning Applications Committee on 26 April 2018, these applications being:

- 17/P3627 – Application for continued use of part of site as a vehicle tyre service centre (sui generis); and,
- 17/P3630 – Application for continued use of part of site as a car wash (sui generis) and its relocation within the site.

- 1.3 Enforcement notices are currently being prepared by Council in relation to the aforementioned uses.
- 1.4 This application was not considered by Committee in April as further consultation was being undertaken on the application.

2. SITE AND SURROUNDINGS

- 2.1 The application site forms part of a wider site which is 168 London Road. 168 London Road was formerly a milk storage and distribution depot (Class B8) belonging to Express Dairy. The wider site comprises a single storey warehouse building located toward the northeast corner of the site; a single storey office building positioned along the northern boundary of the site, to the western side; a single storey porta-cabin/office positioned along the western boundary of the site; with the remainder of the site comprising approximately 280sq.m of hardstanding. The warehouse building is positioned behind No. 166 London Road, a two storey building which was used as ancillary offices to the former use of the site. The site has existing access from London Road.
- 2.2 The warehouse building to the northeast is currently in use as a vehicle tyre and service centre. The hardstanding area to the rear of the site is in use as a carwash. The hardstanding area to the front of the site, adjacent to the vehicle access, is used for vehicle storage with the vehicles being sold online. The applicant asserted that the uses commenced on 03/10/2016 - none of the uses on site have planning permission.
- 2.3 The site is not located within a conservation area. The site is accessed from London Road which forms part of Transport for London's 'red route' network.
- 2.4 Beyond the north boundary near the northwest corner of the site are the rear gardens of two storey terraced properties in Cedars Road; beyond the western boundary, near the northwest corner of the site is the former Crystal Autocare site which has approval for a part 2, part 3 storey building providing 12 flats – construction has commenced and the building is substantially complete. The north east (side) boundary is adjacent to the rear garden boundary of two storey semi-detached properties in Camrose Close and the side boundary of the two storey semi-detached property at 164 London Road. The south west boundary is shared with the residential building called 'Homefield', Homefield provides 24 flats in a three storey building with a 50 metre long side elevation facing towards the application site. On the opposite side of London Road are the four storey residential buildings called Morden House (40 flats) and Grosvenor Court (96 flats).

3. CURRENT PROPOSAL

- 3.1 This application seeks planning permission to regularise the car sales use and to relocate it within the site. It is proposed to move the car storage element to the northwest portion of the site (to the rear).
- 3.2 The applicant has described the use as; car storage associated with online sales; customers collect vehicles from the site following purchase; on occasion, customers will also inspect vehicles at the site prior to purchase. Approximately 25 vehicles would be stored at the site in relation to the use. No servicing or repairs are carried out on site. Opening times are as follows: Monday to Saturday (inclusive): 09:00 – 18:00 while it would be closed on Sundays and public holidays.

4. RELEVANT PLANNING HISTORY

- 4.1 07/P2531: CHANGE OF USE FROM DAIRY DEPOT TO CAR PARK INCLUDING CONTRACT PARKING AND CAR VALETING – Refused.

Reason: The proposed change of use from milk depot (Class B8) to car parking, including contract parking and car valeting (Sui Generis) would:

a) result in the loss of employment land, for which the applicant has failed to demonstrate that there is no demand, or that it is unsuitable or financially unviable for any employment or community use, to the detriment of providing and safeguarding employment opportunities in the Borough,

b) facilitate and lead to an increased number of vehicle/commuter trips to the town centre thereby failing to reduce the need to travel by car and failing to promote more sustainable forms of transport thereby constituting an unsustainable form of development; and would be contrary to policies E.6, PK4 and LU.3 of the Adopted Unitary Development Plan (October 2003).

- 4.2 07/P2597: RETENTION OF ADVERTISING DISPLAYS, IN CONNECTION WITH THE USE OF THE LAND FOR CAR PARKING, ON AND TOWARDS THE LONDON ROAD FRONTAGE – Granted.
- 4.3 14/P3362: Demolition of the existing building [Use Class B8 1165 square metres] and the construction of a new building rising to a total of 4 storeys providing 29 (reduced from 34) residential dwellings [9 one bedroom, 16 two bedroom and 4 three bedroom flats] with 3 off street car parking spaces for people with disabilities, cycle storage, ground level and rooftop amenity space and the formation of new vehicle layby in London Road that includes adjustments to the existing public footpath – The application remains undetermined.
- 4.4 17/P3764: PRIOR APPROVAL IN RELATION TO THE CHANGE OF USE FROM OFFICE USE CLASS B1(a) TO RESIDENTIAL USE CLASS C3 – Refused.

Reasons:

- 1) The lawful use of the site has not been established as B1(a) and therefore Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 is not considered to be applicable to this application.
- 2) The submitted application has failed to provide a plan indicating the site and showing the proposed development, contrary to condition O.2.-(1) and paragraph W.-(2) (b) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015.
- 3) The applicant has failed to provide a Noise Impact Assessment providing sufficient information to allow the impacts of noise from commercial premises on the intended occupiers of the development to be adequately assessed, contrary to condition O.2.-(1) and paragraph W.-(3)(b) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015.
- 4) As determined during the site visit on 05/12/2017, works to implement the conversion to dwellings had begun prior to written notice being issued to the applicant that prior approval is not required, prior approval is granted or the expiry of 56 days following the submission of the application without receiving notice from the planning authority, O.2.-(1) and paragraph W.-(11) (a) (b) and (c) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015.

- 4.5 17/P3630: APPLICATION FOR CONTINUED USE AS A CAR WASH (SUI GENERIS) INVOLVING ITS RELOCATION WITHIN THE SITE – Refused.

Reasons:

- 1) The operation of the proposed car wash has the potential to give rise to water pollution arising from waste water and would impact upon infrastructure. The applicant has failed to provide details of mitigation measures to demonstrate that the proposals will not give rise to a harmful impact. The proposed car wash is considered to be contrary to policies 5.14 of the London Plan (2016) and DM.F2 of the Merton Sites and Policies Plan (2014).
- 2) The operation of the proposed car wash would be likely to give rise to noise and disturbance to the detriment of neighbour amenity and is considered to be contrary to policies 7.15 of the London plan (2016), CS.14 of the Merton Core Planning Strategy (2011), and DM.EP4 and DM.D2 of the Merton Sites and Policies Plan (2014).
- 3) The operation of the proposed car wash adjacent to the public highway would detract from the appearance of the site to the detriment of the visual amenities of the area. The proposals are considered to be contrary to policies CS.14 of the Merton Core Planning Strategy (2011) and DM.D1 and DM.D2 of the Merton sites and Policies Plan (2014).

- 4.6 17/P3627: APPLICATION FOR CONTINUED USE AS A VEHICLE TYRE AND SERVICE CENTRE (SUI GENERIS) – Refused.

Reason: The operation of the vehicle tyre and service centre including ancillary storage of tyres gives rise to noise and disturbance to the

detriment of neighbour amenity and has the potential to detract from the visual amenities of the area. The continued operation of the vehicle tyre and service centre is considered to be contrary to policies 7.15 of the London plan (2016), DM.EP4 and DM.D2 of the Merton Sites and Policies Plan (2014)

5. CONSULTATION

5.1 Public consultation was undertaken by way of site notice and by post sent to neighbouring properties – 13 objections were received which are summarised as follows:

- Opening hours should be reduced.
- Site is kept in an untidy state.
- There should be no residential use on site.
- Activities are unauthorised.
- A strategy should be required for keeping the site tidy, pest control and tyre disposal.

5.2 Transport for London: Given the scale and nature of the proposal, no objection.

5.3 LBM Transport Planner: No objection. No vehicles should stop on London Road for loading/unloading.

5.4 Former Councillor John Sargeant (Officers note that John Sargeant was one of the Merton Park ward Councillors at the time of receipt of the application). The activities have been the cause of considerable disturbance and irritation for residents for many years, for them to continue as is would be unreasonable. If officers are minded to approve consider applying conditions and refer to Committee for determination. Areas for consideration include hours of operation, noise control, tyre storage and carwash runoff. No buildings should be used for residential purposes.

6. POLICY CONTEXT

6.1 National Planning Policy Framework (2018)
Section 6 - Building a strong, competitive economy.
Section 12 – Achieving well designed places.

6.2 London Plan (2015-6)

Relevant policies include:

- 4.1 Developing London's economy
- 4.4 Managing industrial land and premises
- 6.3 Assessing effects of development on transport capacity
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing traffic flow and tackling congestion
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.2 An inclusive environment
- 7.14 Improving air quality
- 7.15 Reducing and managing noise

6.3 Merton Local Development Framework Core Strategy – 2011 (Core Strategy)

Relevant policies include:

- CS 11 Infrastructure
- CS 12 Economic Development
- CS 15 Climate Change
- CS 18 Active Transport
- CS 20 Parking servicing and delivery

6.4 Merton Sites and Policies Plan – 2014 (SPP)

Relevant policies include:

- DM D1 Urban design and the public realm
- DM D2 Design considerations
- DM T2 Transport impacts of Development
- DM T3 Car parking and servicing standards
- DM EP2 Reducing and mitigating noise
- DM EP4 Pollutants
- DM E1 Employment areas in Merton
- DM E4 Local employment opportunities

7. PLANNING CONSIDERATIONS

7.1 Material Considerations

- Principle of development.
- Impact upon neighbouring amenity.
- Transport and parking.

Principle of development

7.2 Notwithstanding that in 2015 Council endorsed proposals for the use of the site for housing resulting in the loss of employment land, the issue of the use of the land vis a vis Merton's adopted employment policies is nevertheless revisited. Policy DM E3 of the Sites and Policies Plan seeks to protect scattered employment sites, it states that where proposals would result in the loss of an employment site, they would be resisted except where: the site is located predominantly in a residential area and it can be demonstrated it is having a significant adverse effect on residential amenity, the site characteristics make it unviable for whole site employment, it has been demonstrated that there is no prospect of employment or community use on the site in the future. Where the above criteria cannot be met, the loss can be mitigated by providing employment as part of a mixed use scheme.

7.3 For the purpose of policy DM E3, 'employment sites' are sites that operate within use classes B1 (a, b & c), B2 and B8. However, the policy also states that it is intended to protect D2 and *sui generis* uses on scattered employment sites where appropriate. While the site has not operated as a storage and distribution depot for some time, its lawful use would still fall within B8.

7.4 This application seeks to regularise one of the current uses on site, being the vehicle sales yard; this use is considered to fall within use class *sui generis* i.e. it does not fall within a specific class as identified by the Use Class Order. While this use would not strictly fall within the definition of 'employment uses' for the purpose of policy DM E3, the use has similarities to class B8, insofar

as the use of the land is for the open storage of vehicles, and provides employment for 3 full time employees. Officers consider the use to be sufficiently different from the earlier refused application for contract parking, where concerns were raised regarding an increased number of vehicle/commuter trips to the town centre thereby failing to reduce the need to travel by car.

- 7.5 The Sites and Policies Plan (paragraph 4.30) states that in keeping with the spirit of Core Planning Strategy objectives and Policy CS12 Economic Development, it is intended for policy DM.E3 to protect other uses located on scattered employment sites such as leisure and entertainment (D2 Use Class) and uses identified as sui generis where appropriate. The use is “sui generis” and while the amount of employment it provides is modest, the use is one that might be considered as an appropriate short term measure on the site pending redevelopment for housing.
- 7.6 Given the above, it is considered the proposal is acceptable in principle; subject to compliance with the relevant London Plan policies, Merton Local Development Framework Core Strategy, Merton Sites and Policies Plan and supplementary planning documents.
- Impact upon neighbouring amenity
- 7.7 London Plan policies 7.14 and 7.15 along with SPP policies DM D2, DM EP2 and DM EP4 state that proposals must be designed to ensure that they would not have an undue negative impact upon the amenity of neighbouring properties in terms of light spill/pollution, loss of light, quality of living conditions, privacy, visual intrusion, noise and pollution.
- 7.8 The car sale yard would accommodate approximately 25 cars. Given the nature of the proposal, being car storage and pickup, with minimal vehicle movements, it is not considered to unduly impact upon neighbouring amenity.
- 7.9 However, it is recommended to restrict opening hours to between 09:00 and 18:00 from Monday to Saturday (inclusive) with the operation to be closed on Sundays and public holidays. In addition, it is recommended to include a condition which would prohibit any servicing or repairs from occurring onsite.
- 7.10 Conditions may be used to restrict the life of a permission where there are reasonable grounds that monitoring the impact of the use is necessary in order to properly gauge environmental impact. While some concerns have been raised about hours of operation it is less clear that this specifically relates to the car sales use. Officers have no evidence to suggest that vehicles are serviced on site before being parked and offered for sale. Thus, other than the above amenity considerations (hours of operation and restricting servicing) which can in themselves be controlled by condition, it is considered that the use does not harm neighbour amenity. Officers therefore consider that it would be unreasonable to seek to restrict the use by condition to a limited period.

Transport and Parking

- 7.10 Core Strategy policy CS20 and SPP policy DM T3 require that developments would not adversely affect pedestrian or cycle movements, safety, the convenience of local residents, on street parking or traffic management.
- 7.11 The vehicle access along with the central portion of the site would be left clear to facilitate easy ingress and egress to/from London Road, thus the use of the site would not unduly impact traffic movements of the 'red route'. With regard to parking provisions, the operators would only accept as many cars as the site could reasonably accommodate.
- 7.12 Given the above, it is not considered that the proposal would unduly impact upon the highway network in terms of performance or safety. Furthermore, it is noted that neither TFL nor the LBM Transport Planner objected to the proposal.
- 7.13 Were the car sales use to expand onto more land within the site a breach of planning control would arise and the Council could then determine whether it was in the public interest to pursue enforcement action for a breach of planning control.

8. CONCLUSION

- 8.1 Given the nature of the proposal along with the employment generation, the principle of the use is considered to be acceptable. The proposal is not considered to unduly impact upon neighbouring amenity or upon the performance or safety of the highway network. As such, the proposal is considered to comply with London Plan policies 7.14 and 7.15, Core Strategy policy CS20 and Site and Policies Plan policies DM E3, DM T3, DM D2, DM EP2 and DM EP4.
- 8.2 The proposal would accord with the relevant National, Strategic and Local Planning policies and guidance and approval could reasonably be granted in this case. It is not considered that there are any other material considerations which would warrant a refusal of the application.

RECOMMENDATION

Grant planning permission subject to appropriate conditions.

Conditions:

1. Standard condition [Commencement of development]: The development to which this permission relates shall be commenced not later than the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. Standard condition [Approved plans]: The development hereby permitted shall be carried out in accordance with the following approved plans: TP11B, TP13 and TP10.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Standard condition [Opening hours]: The use hereby permitted shall operate only between the hours of 09:00 and 18:00 from Monday to Saturday (inclusive) and shall not operate on Sundays or bank holidays.

Reason: To safeguard the amenities of surrounding area and to ensure compliance with policy 7.15 of the London Plan 2016 and policies DM D2 & DM EP2 of Merton's Sites and Policies Plan 2014.

4. Non-standard condition [Restricted use]: No servicing or repairs of cars shall be undertaken as part of the operations of the development hereby permitted.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and to ensure compliance with the following Development Plan policies for Merton: policies 7.14 and 7.15 of the London Plan 2015 and policies DM D2, DM EP2 and DM EP4 of Merton's Sites and Policies Plan 2014.

Informatives:

a) Informative: In accordance with paragraph 38 of the National Planning Policy Framework, The London Borough of Merton takes a positive and proactive approach to development proposals focused on solutions. The London Borough of Merton works with applicants or agents in a positive and proactive manner by suggesting solutions to secure a successful outcome; and updating applicants or agents of any issues that may arise in the processing of their application. In this instance LBM officers have provided feedback and allowed for additional time and amendments to improve the scheme. In addition, the Planning Committee considered the application where the applicant or agent had the opportunity to speak to the committee and promote the application.

[Click here](#) for full plans and documents related to this application.
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