

**PLANNING AND LICENSING COMMITTEE**

**15<sup>th</sup> January 2020**

**ADDITIONAL PAGES**

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**ADDITIONAL PAGES - CIRCULATED TO MEMBERS BY POST**

**AVAILABLE FOR PUBLIC INSPECTION UNDER THE PROVISIONS OF THE  
LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Additional Representations on Schedule Items

Pages 1 - 23

PLANNING AND LICENSING COMMITTEE

15<sup>th</sup> January 2020

ADDITIONAL PAGES ON SCHEDULE ITEMS

Item Ref. No Content

Item	Ref. No	Content
03	19/02171/COMPLY	Please see additional comments from the Local Lead Flood Authority (GCC) in the attached letter, dated 06.12.19, in response to Objectors' concerns.
04	19/01184/FUL	<p>Additional information has been received following the deferral of the application in October 2019. The additional information comprises:</p> <p>i) Additional comments from objectors – please see attached dated: 23.12.2019 (Glanville Consultants Ltd) 04.01.2020 (Pretty) 06.01.2020 (Forsters LLP)</p> <p>ii) Additional noise report – please view via the online planning register on our website: <a href="https://publicaccess.cotswold.gov.uk/online-applications/">https://publicaccess.cotswold.gov.uk/online-applications/</a></p> <p>iii) Highways including traffic count – please view via the online planning register on our website: <a href="https://publicaccess.cotswold.gov.uk/online-applications/">https://publicaccess.cotswold.gov.uk/online-applications/</a></p> <p>iv) Highways comments – please view via the online planning register on our website: <a href="https://publicaccess.cotswold.gov.uk/online-applications/">https://publicaccess.cotswold.gov.uk/online-applications/</a></p> <p>Please note that Officers recommend that this item is deferred to allow further assessment of the additional information.</p>
08	19/04581/TPO	Stow-on-the-Wold Town Council - Wrote in support of the application raising no objections.



## Lead Local Flood Authority

Shire Hall  
Gloucester  
GL1 2TH

Adrian Walker  
Cotswold District Council  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

email: david.lesser@gloucestershire.gov.uk

Please ask David Lesser  
for:

Phone: 01452 427438

Our Ref: C/2019/043089

Your Ref:  
19/02171/COMPLY/LLFA

Date: 6 December 2019

Dear Adrian Walker,

### TOWN AND COUNTRY PLANNING ACT 1990 LEAD LOCAL FLOOD AUTHORITY RECOMMENDATION

**LOCATION: Land East Of Bell Lane Poulton Gloucestershire**

**PROPOSED: DISCHARGE Compliance with Conditions 6, 7 and 8 of Permission 15/01376/OUT -  
Outline planning application for the erection of up to 9 dwellings and associated access  
(appearance, layout, landscape and scale reserved for future consideration)**

Further to my response of stating that the drainage scheme proposed conforms with requirements objections have been raised stating the contrary.

One of the objections is based on the impermeable area being identified as 40%. Objectors are under the understanding that this means that surface drainage calculations for the remainder of the site are based on an expectation that it will soakaway, this is a misunderstanding. The identification of impermeable area is the area that will change from the green field condition due to it being buildings or impermeably paved areas. The remainder is modelled as draining in the way it did as a green field site. Paragraph 6.10 of the Non-technical Drainage summary states that the drainage characteristics are based on soil parameters defined in the Flood Estimation Handbook, this is an accepted method for modelling surface water flow.

Another objection is based on the use of over ground attenuation storage. The objection seems to be based on health and safety issues and the belief that the attenuation features will become "at best a swamp". Open attenuation features are a widely used feature of Sustainable Drainage Systems, their popularity is based on ease of maintenance compared to underground schemes and the opportunity they offer for amenity and encouragement of bio diversity. The feature will only hold water in times of high rainfall, for most of the time it will be a dry grass lined depression. The cross sections in drawing 8180113/SK14 show that following a 1:1 rainfall event the pond will have a maximum depth of 0.49m at the deepest point, closest to the outfall. This is the maximum depth before the pond drains down after the event.

The main benefit of overland surface water drainage systems is that it can be easily and clearly identified when there might be any potential problems or blockages in the system. The LLFA would always favour the use of overland surface water management to underground "out of site out of mind" solutions that would be susceptible to siltation and, in limestone geology areas, calcification over the

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19/02171/comply.

lifetime of the development both problems that are never identified until the system fails and are very expensive to resolve.

With regard to health and safety issues, there are large numbers of similar features on developments all over the country and none have yet proven to be a health and safety issue. It is difficult to identify what the perceived health and safety issue might be.

I would suggest that all the points raised by objectors are addressed in the Non-Technical Drainage Summary. While objectors may disagree with some of the wording the LLFA is satisfied that the proposed surface water drainage scheme is suitable for the development proposed.

Issues surrounding capacity of foul sewers should be addressed to Thames Water.

Yours sincerely,

David Lesser  
Sustainable Drainage Engineer

Hem 03  
19/02/17/comply - 2.

Our Ref: TR8191060/TF/DW/003

Cornerstone House, 62 Foxhall Road  
Didcot, Oxfordshire OX11 7AD

23 December 2019

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Ms Alison Williams  
Cotswold District Council  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

Dear Ms Williams

**LAND NORTH OF MIDFORD HOUSE, WINDRUSH, GLOUCESTERSHIRE  
APPLICATION NO. 19/01184/FUL**

We are instructed by Mr & Mrs M. J. Pretty to write to you in connection with the above application which proposes the erection of a joinery workshop on land North of Midford House, Windrush.

You will be aware from the consultation responses to the application that your authority has received that Mr and Mrs Pretty, along with a number of other residents of Windrush, have significant concerns with the proposals and have sought to highlight to both your authority and Gloucestershire County Council (GCC) as Local Highway Authority, a number of deficiencies with the technical information submitted by the Applicant.

It was therefore with some surprise that those objecting to the application discovered that GCC had found insufficient grounds upon which to raise objection to the proposals and rather had suggested a series of Conditions designed to mitigate the development's impact.

In light of the above and given the additional time which the further deferral of the application at the 13 November Planning and Licencing Committee afforded, Mr and Mrs Pretty wish to again impress upon both Councils the very obvious technical issues which surround the delivery of the proposal as currently presented and have duly engaged Glanville to do this on their behalf.

It is therefore the purpose of this communication for Glanville, as experienced transport and highway consultants, to address the specific deficiencies which exist with respect to the proposed highway solution which has been put to the Councils, with a view to urging the Highway Authority in particular to reconsider its position on the application.

The key technical matters which this letter considers are as follows:

- The suitability of the proposed site access;
- The suitability of the proposed site layout; and
- The impact of the proposals on the local road network.

Hem 04  
19/01184/FUL

- Structural Engineering
- Civil Engineering
- Transport & Highways
- Geomatics - Land Survey
- Building Surveying
- BIM

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**Offices also at Hemel Hempstead**



Suitability of the Proposed Site Access

The application proposes that vehicle access into the site be achieved by way of a simple bellmouth access onto the unnamed road which joins Windrush village centre to the A40 to the north and south respectively.

The unnamed road is subject to a 30mph speed limit and is narrow, measuring just 3m in width.

The unnamed road in effect sits within a cutting, with the application site sitting atop a steep bank to the east, well elevated above the road level. The existing road conditions are illustrated in the photograph below.



When the application was first lodged, the Applicant's drawings illustrated the provision of visibility splays of 54m to both the left and right upon egress from the proposed site access. The splays appeared to be unsubstantiated and not therefore corroborated by any technical analysis.

Subsequently and seemingly in order to help support the provision of reduced visibility splays, the Applicant undertook a traffic survey to identify the speed of vehicles travelling along the unnamed road.

In this regard, a single Automatic Traffic Counter (ATC) was located approximately 50m north of the site access, for a period of seven days, between 11 October 2019 and 17 October 2019.

The results of this speed survey showed that the 85<sup>th</sup> percentile speed of vehicles travelling southbound along the unnamed road was 20.4mph, while that of vehicles travelling northbound was 20.8mph.

Based upon these speeds, the required extent of visibility to both the right and left upon egress is 26m in accordance with guidance contained in Manual for Streets 1. The required visibility splays were duly presented on drawing No. SCP/190737/F01 dated 24 October 2019.

GCC accepted this analysis and duly suggested an appropriate condition be attached to any consent requiring that the required splays be provided from an 'X' distance of 2.4m.

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Albeit Glanville do not wish to challenge the principal of the means by which the visibility splay requirements have been calculated (i.e. the use of *Manual for Streets 1*), it is nevertheless the case that the positioning of the speed survey equipment did not accord with industry guidance.

CA185 Revision 0 (formerly TA 22/81) of the Design Manual for Roads and Bridges requires speed surveys to be undertaken either side of the proposed access. Paragraph 2.4 states '*Measurements for journey speed shall be taken on the approaches to the scheme extents*'.

As such, it is clear that the Applicant's single speed survey located adjacent to the site access is not appropriate, not least because the bend in the unnamed road to the north means that vehicle speeds will change substantially on approach to the site from either direction.

In order to inform this letter, our Clients commissioned two traffic surveys, again undertaken by ATC, between 5 and 16 December<sup>1</sup>, with survey equipment positioned either side of the access in line with CA185 Revision 0.

The results arising from the speed surveys are as follows:

- The 85<sup>th</sup> percentile speed of vehicles travelling southbound from ATC 1 was 22.1mph
- The 85<sup>th</sup> percentile speed of vehicles travelling northbound from ATC 2 was 24.3mph

The 85<sup>th</sup> percentile speeds shown above are below 37mph and therefore visibility can be calculated based upon guidance within *Manual for Streets 1*.

The results, both of which are appreciably higher speeds than those recorded by the Applicant, give rise to a need for 32m of visibility to be achieved to the left upon egress from the application site and 29m to the right.

These visibility splays are illustrated on drawing No. 8191060/6101, which is enclosed.

In the horizontal plane, albeit we are content that the left-hand splay could be achieved within either land controlled by the Applicant or that within the extent of adopted highway, we note that the submitted Tree Protection Plan indicates the planting of a 'New Native Hedge, Double Staggered Row' along the site's western boundary. The hedge is shown to be planted right up to the proposed site access. As such, it is evident that visibility to the left upon egress from the site will be compromised by the hedge, increasingly so as it matures and thickens out.

To the right upon egress, the required visibility splay would appear to cross land to the north of the application site which is both outside of the Applicant's control and the adopted highway boundary.

Furthermore, albeit we note that the Applicant is proposing to clear the bank of vegetation, when considering visibility in the horizontal plane, once a new access has been cut through the bank and into the site, we believe that the corresponding levels will be such that a driver egressing the site will simply see an embankment (and likely the new hedge), rather than having clear sight across the bank itself.

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<sup>1</sup> The ATCs were installed on 5 December 2019, to run until 11 December 2019. Due to road closures between Windrush and Sherborne between 4–8 December 2019, the ATCs were extended until 16 December 2019, in order to provide seven days of accurate data.

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To this end, we believe that:

- Visibility to the right will be obscured by the proposed mitigating hedge planting.
- Visibility to the right crosses land outside of the Applicant's control.
- Visibility to the left and right is obscured due to the topography of the site and the proposed access in the context of the existing bank and carriageway level.

As such, it is concluded that **appropriate visibility cannot be achieved upon egress from the site.**

It is requested therefore that GCC Highways review the required visibility and the Applicant's ability to deliver it and that the Applicant demonstrate the necessary extent of vision on a topographical survey base, with their land control clearly identified.

Further on the matter of the access, again in the absence of any topographical information, it has not been proven that the maximum access gradients prescribed by GCC can be met. Having assessed the levels of site, given the width of the site it is unclear if a satisfactory access could be formed to prevent vehicles grounding out when accessing and egressing the site.

As such, it is concluded that **it has not been demonstrated that a safe access can be delivered.**

It is requested therefore that GCC Highways review the access design and provide the necessary reassurance that a compliant access design could in fact be delivered.

#### Suitability of the Proposed Site Layout

The proposed access meets the unnamed road at one of its narrowest points, with a bend in the road approximately 10m north of the site.

GCC's list of proposed conditions stated that:

*'The building hereby permitted shall not be occupied until the vehicular parking and turning and loading/unloading facilities have been provided in accordance with the submitted plan drawing no. 212578-02, and those facilities shall be maintained available for those purposes thereafter.'*

*'Access and Layout conditions ensure that the layout is able to accommodate turning and as such forwards movement in and out.'*

However, drawing No. 212578-02 is dated 08 October 2013 and relates to a superseded version of the site layout plan, not the current proposed layout drawing No. 212578-10 which is dated 04 July 2019.

Drawing No. 212578-10 illustrates a much reduced area of parking compared to drawing No. 212578-02 and therefore the proposed layout and turning facilities have not been adequately considered by GCC in their consultation response. All matters stated in the above condition should therefore be reviewed with reference to the updated layout as it is upon this drawing that the application is to be determined.

In order to demonstrate whether the revised site layout would in fact ensure 'forwards movement in and out', we have overlaid the car parking area shown in Drawing No. 212578-10 and undertaken swept path analysis of a private vehicle and a 3.5T panel van (Drawing No. 8191060/6201 enclosed) taking access to the site. It is considered that these two vehicles realistically represent those likely to have to require access to the site.

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It is self-evident that neither can achieve satisfactory access given the width of the access and the width of the unnamed road. Equally, it is evident that insufficient space exists on-site to allow turning and egress in forward gear.

As such, it is concluded that the proposed site layout **does not afford safe access and egress in forward gear.**

It is requested therefore that GCC Highways review the site layout from the perspective of highway safety and confirm that they are indeed satisfied that the proposed layout would allow the Applicant to meet their suggested condition.

#### Impact of the Proposals on the Local Road Network

It is anticipated that, if vehicles cannot access the site, the unnamed road would be blocked for up to 30 minutes for the delivery of materials and presumably also for the removal of finished goods from the application site.

From a network management and operational perspective, notwithstanding the relatively light traffic flows along the unnamed road, it is simply unacceptable for the public highway to be blocked for such an extended period, simply for the benefit of private enterprise.

The very definition of a public highway is such that the public have a legal right to pass and repass over land; the obstruction thereof goes against the very principal of being able to pass and repass.

Irrespective, it is the case that any vehicle approaching a vehicle parked to service the site would be faced with either the prospect of incurring a long delay or would have to reverse up a steep and narrow road, turn around, then travel a further 1.1km onto the A40 in order to avoid the obstruction.

As such, it is concluded that the proposed site layout **does not afford the ability for safe servicing to be undertaken, giving rise to an adverse impact upon highway safety and convenience.**

It is requested therefore that GCC Highways review the proposals from a network operation perspective and give consideration to the adverse impacts that having vehicles blocking a public highway has upon highway safety and convenience.

#### Summary

This letter has been prepared by Glanville Consultants on behalf of Mr & Mrs M. J. Pretty in order to identify and emphasise a series of technical deficiencies from a highways perspective which exist in respect of a proposal to build a joinery workshop in the village of Windrush.

It has been demonstrated herein:

- **That appropriate visibility cannot be achieved upon egress from the site.**
- **That it has not been proven that a safe access can be delivered.**
- **That the proposed site layout does not afford safe access and egress in forward gear.**
- **That the proposed site layout does not afford the ability for safe servicing to be undertaken.**

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It is concluded therefore that the proposal does not meet the tests of Paragraph 109 of the National Planning Policy Framework owing to the fact that it would give rise to an unacceptable impact on highway safety and give rise to a severe residual cumulative impact on the road network.

It is therefore respectfully requested that both the Local Planning and Highway Authority reassess the submitted application material and review their recommendations accordingly.

Yours sincerely

Vicky Thompson  
Principal Transport Planner  
Glanville Consultants

Enc. Drawing No. 8191060/6101  
Drawing No. 8191060/6201

cc. Mr & Mrs M. J. Pretty (plus encs)  
CDC - Head of Planning, Mr Phil Shaw (plus encs)  
GCC Highways - Rich Jefferies (plus encs)

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## Lesley-Jane Weaver

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**Subject:** FW: Application 19/01184/FUL Joinery Workshop in Windrush for Planning Committee

**From:** Matthew Wedderburn  
**Sent:** 27 November 2019 16:16  
**To:** Alison Williams  
**Subject:** RE: Application 19/01184/FUL Joinery Workshop in Windrush for Planning Committee

Hi Alison,

Firstly - yes, the applicant is seeking to address the request from the EHO for a noise assessment asap. A suitable provider has been instructed to provide a report to the appropriate specification (including on site noise measurement and at the applicant's existing site) and is expected to provide the completed study by 6 Dec. If it were submitted to the LPA that day does this give sufficient time at your end?

On the point about the applicant's business, I have spoken this afternoon to the applicant and he can provide the following points by way of clarification:

- Mustoe and Sons Ltd (company number ref. 04118582) is the business set up by his late father. The business is a small one with 2 elements: the joinery part of the firm run by Adrian Mustoe, and a general building operation, run by his brother Nicholas Mustoe.
- Subject to planning permission being obtained Adrian Mustoe would transfer his joinery operation to the new workshop, hence the application seeks permission for a 'joinery workshop'. There is no intention to locate any element of the general building contractor part of the firm here.
- I apologise if any confusion may have arisen, certainly there was no intention to mislead. In any event we do consider it is reasonable to describe the proposed occupier on site as a small local joinery business and, although it is the case that his brother and his brother's wife are also directors of the firm and that there is a related general building operation, we do not consider that the planning application has misrepresented the position in any significant regard.

With regard to benefits arising from the proposals, the applicant is one of a limited number of small scale building craftsmen and we'd suggest these traditional joinery skills are worth seeking to retain in the Cotswolds (a significant portion of his work is involved in the renewal of historic buildings, with major clients being the National Trust and the Oxford University colleges).

Notwithstanding the above, should you have any concerns further to the objector's points below, you may recall the applicant noted at the pre-app meeting that he would accept some form of occupancy condition (e.g. to a joinery operation and no other use) and he reiterates that this remains the case.

If I can be of any further assistance here please do not hesitate to let me know.

Kind regards

Matt

**Matthew Wedderburn**  
Senior Associate

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## Lesley-Jane Weaver

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**Subject:** FW: Urgent - Proposed joinery workshop at Windrush

**From:** MEAD, Chris  
**Sent:** 07 January 2020 11:41  
**To:** Alison Williams  
**Subject:** RE: Urgent - Proposed joinery workshop at Windrush

Main response

Alison,

GCC have reviewed the note from Glanville in relation to access. We have also reviewed the wording of Section 5 of the Forsters letter simply to establish the wording and continuity with the Glanville note. As such the letter has not been passed to GCC Legal Services for scrutiny at this time as we consider that it was written to the Local Planning Authority and not the Local Highway Authority.

In reviewing the note from Glanville and the comments made I see no merit in exhausting public resource on matters that are clearly within the ability of a competent highway authority with a significant amount of rural highway to maintain safely for all users. However, there is a need to address some matters in brief to establish the difference between planning recommendations of a statutory consultee and technical approvals that will be necessary to ensure that access onto a highway from any private demise is to our technical specifications.

The site is located in an area that can make use of land in the applicant's ownership and highway land to achieve access. We note that there are concerns raised around the banks, cutting, vegetation and sightlines for drivers. These are technical matters and are covered by a suitably worded condition and by note that the applicant must enter into a Highways Legal Agreement to secure the appropriate technical approval.

In planning terms the applicant has identified a location for safe and suitable access, based on recorded speeds. CA185 has been cited and is the latest guidance for measured speeds on motorways and trunk road schemes, of which this rural lane being a Class 3 road is not. So in order of classification we have:

Motorway & Trunk Road (M)

Class 1 – A Road

Class2 – B Road

Class 3 – C Road

I am also of the opinion, albeit in the absence of the actual speed survey data from the objection, that the increased speeds to the south are somewhat obvious given the forward sightline and further distance from the bend. Further to that the 5 day average of 165 movements per day, which broadly speaking would be no more than between 25 – 33 movements in the busiest hour. In any case the term 'lightly trafficked' would be wholly appropriate. GCC as a statutory consultee has no reason to be overly vexatious or officious on matters that are clearly not a consideration of the Standards for Highways – Design Manual for Roads and Bridges for Motorways and Trunk Roads. It's also dumbfounding to have a consultant purport that a rural road that has been in existence for at least 80 years should be speed surveyed to a motorway standard and adhere to a document first published in 2007 [Manual for Streets]. We do however use Manual for Streets visibility requirements in rural settings as it is the lowest [safe] visibility standard and we would be remiss to attempt to set our own standards when we can rely technically on these.

I take little issue with the statements that in essence agree that there is more technical work to be done but we are satisfied that the applicant has sufficient land in the their ownership and highway land to seek technical approval with GCC under the Highways Act 1980. That administration only falls under planning based on the class of the road and planning consent does not equate to buildability. We have no reason to make a highways reason for refusal on

planning grounds subject to technical approval secured by condition / requirement to enter into a Highways Legal Agreement. For assurance, the absence of these necessary discharges of consent would equate to planning enforcement request to the Local Planning Authority.

I do however fundamentally disagree with the conclusion of the note as follows:

**'That it has not been proven that a safe access can be delivered'**

An access opportunity has been identified in plan and visibility has been shown across land in the applicant's ownership and highway land. There can be no doubt that an access as shown would be safe [in accordance with Manual for Streets, regardless of which sets of speed data were used] and suitable in a rural setting. If the applicant is able to technically demonstrate as part of a binding legal agreement the buildability of this access whilst meeting the planning conditions then the access will be constructed in accordance with the planning. If not, or if alternative requirements are agreed then these would need to be resubmitted in planning.

In terms of the internal arrangement I note the objection points raised and the work that has been produced by them, which attempts to do little other than to achieve their point. I am minded towards giving the application an opportunity to demonstrate what they can turn within the land in their ownership and the possibility of creating an informal passing place / loading area on the crossover frontage to be of both suitable access and local benefit and establish the reasonableness and viability of such in planning.

Regards,

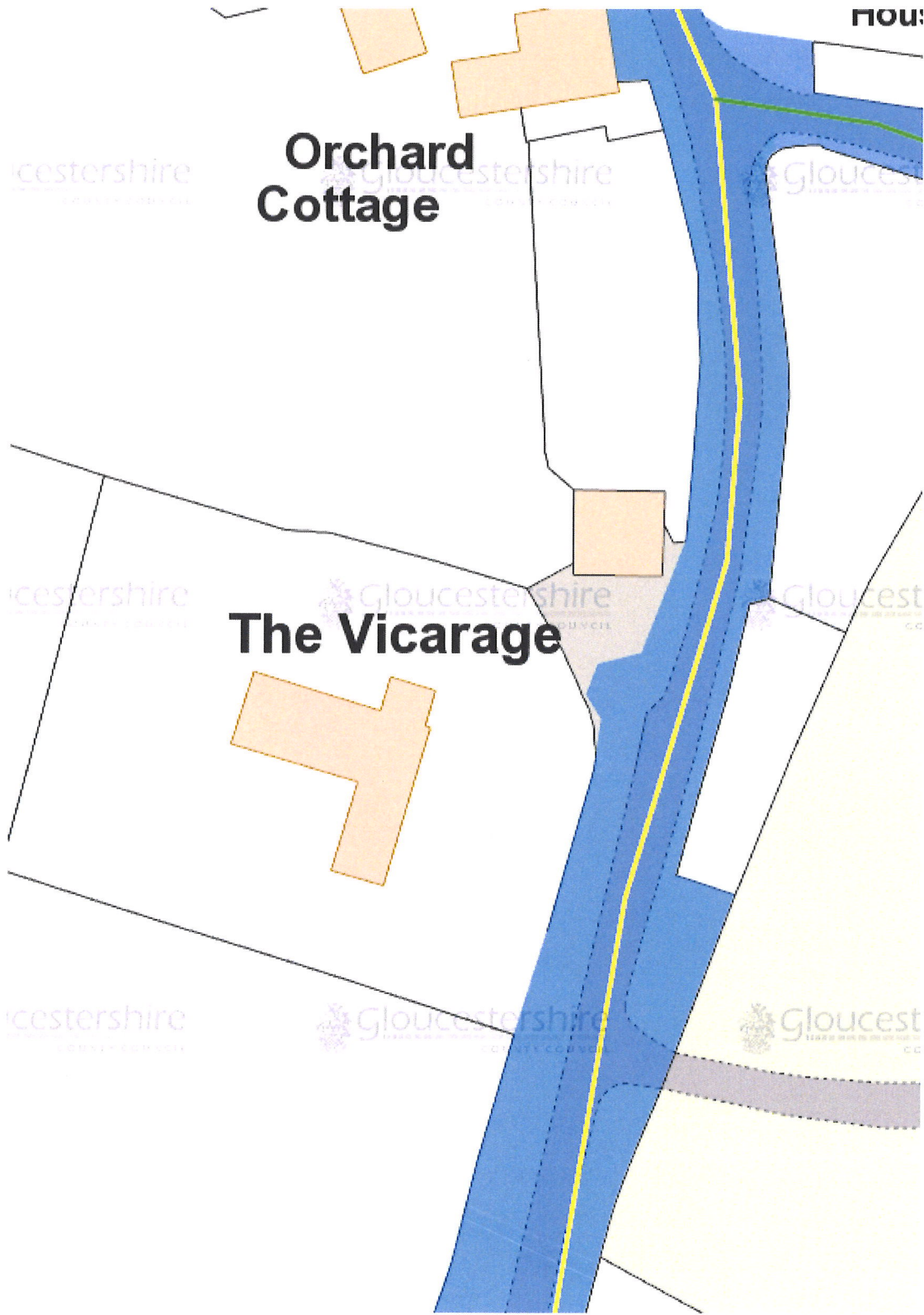
Chris Mead

Highways & Development Management (HDM) Consultant

Email: [chris.mead@gloucestershire.gov.uk](mailto:chris.mead@gloucestershire.gov.uk)

Go to [www.gloucestershire.gov.uk](http://www.gloucestershire.gov.uk) to find information on any County Council service. It couldn't be easier to find information instantly and in some cases apply for services online.

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Flow

**Orchard Cottage**

**The Vicarage**

HEMOH  
19/01/24/FUL  
R.



## Lesley-Jane Weaver

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**Subject:** FW: 19/01184/FUL Joinery Workshop, Windrush  
**Attachments:** Mustoe & Sons Accounts 31Dec 2018.pdf; mustoe-sons-limited-04118582 (2) 5 DEC19.pdf

**From:** Pat Pretty  
**Sent:** 04 January 2020 20:19  
**To:** Alison Williams  
**Cc:** Juliet Layton  
**Subject:** 19/01184/FUL Joinery Workshop, Windrush

Dear Ms Williams,

I have received a Notice that the above application will come to Committee again on 15<sup>th</sup> January 2010. I can only hope that your report to members has been altered to remove some of the misleading statements and inaccuracies on your previous Report. Unfortunately I live near this site therefore would appear biased in my opposition however, I can say in all honesty that wherever I lived in the Cotswolds I would oppose this application for change of use to

Light Industrial on this important site and, if approved, overturning previous decisions of the Council (and Planning Inspector) based on a long standing policy of supporting Conservation Areas and the beautiful AONB. Overturning previous decisions could set a very worrying precedent for other conservation areas in the AONB.

I regret to say that you have accepted every point made by Knights, the Applicant's agents whether it is correct or not. It appears that you gave the green light for this application at your pre-meeting on 18<sup>th</sup> January 2019 and every valid point of opposition to it has been discounted in favour of some nebulous, unenforceable Public Benefit. Knights D&A statement contained inaccurate information, misleading statements and a basic untruth regarding the 'Public Benefit'. Firstly they have implied that Mr Adrian Mustoe is the Owner/ Proprietor of Mustoe & Sons Ltd which is incorrect. This gives the appearance of a small self-employed joiner in a traditional trade. You did not correct the Member reporting back from the Sites Inspection Panel who thought it would be appropriate for the relocation of a small joinery business to land in the applicant's ownership. In the past I have referred you to Publicly available information which I am now attaching in case you have not checked the veracity of the statement that this applicant could (only) finance the employment of an apprentice by saving rent on a workshop owned by the National Trust. This is a very successful business which added net profit of £234,875 to its balance sheet up to 31<sup>st</sup> December 2018 (after payment of Directors salaries, emoluments and the National Trust Rent etc). These accounts show that an apprentice could have been employed at any time during the past 5 years.

The basic points from your previous report to Members are:-

1. You suggested that the area adjacent to the site had changed since the Inspector's Decision which has been disproved by the owners of South View. However, what has happened is that the applicant has cut back all the native vegetation on his land and turned it into an open space of nettles which makes it unattractive whereas previously it was a typical Cotswold Village banking.
2. The Applicant is a Director of Mustoe and sons Ltd and holds approximately 35.5% of the shares which does not make him the owner. There are 2 employees already and the site is too cramped for even one vehicle to park and leave the site in forward gear. Where would the other employee and apprentice park in a village with no public transport or any other services for employees You have made the normal sanitary requirements for employees and the digging of a septic tank a condition rather than ask for a plan and details of the layout in advance.

3. Highways safety and sight lines discussed at your pre application meeting cannot be met therefore have been altered to suit the application. A delivery vehicle will not be able to access the site and the public highway could be blocked for up to 30 minutes.
4. To facilitate Approval of the application there are 15 conditions many of which are virtually unenforceable and cannot be met in terms of Employee H&S requirements and condition of the site with tree roots etc. The applicants could apply to change these after approval or disregard them.
5. This is all for what you consider to be a Public Benefit of another employment area in Windrush which already has much more suitable sites. This site is too cramped for the scale of a business manufacturing doors, windows and staircases. Have you queried why such a successful business would not have employed an apprentice before?

Considering that the only public benefit of this proposal would be the employment of an apprentice, you are asking this young person to work in a building with little natural light, doors and windows to remain closed at all times even in very hot weather, storage of raw materials and finished products inside the building, a very noisy environment wearing ear defenders, very little space to sit or relax during a break and in a village with no facilities, shops or parking on site. This sounds more like working conditions in the 19<sup>th</sup> century rather than a progressive workplace and suitable location for the 21<sup>st</sup> century.

I believe that you have been misled over the background to this application and should postpone consideration of the matter until new evidence currently being submitted can be properly considered.

Yours sincerely,

Pat Pretty  
Honorary Alderman of the CDC

**URGENT**

FAO: Kevin Field  
Planning and Development Manager  
Cotswold District Council  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

**Your Ref:** 19/01184/FUL  
**Our Ref:** VKDC/LCP/33468.2  
**Direct Line:** +44 20 7863 8351  
**Email:** laura.parrish@forsters.co.uk  
**Date:** 6 January 2020

Also by email: kevin.field@cotswold.gov.uk

Dear Sirs

**Proposed erection of a joinery workshop at Land North of Midford House, Windrush, Burford OX18 4TS ("the Proposed Development") (application ref. 19/01184/FUL)**

Please note that the contents of this letter are extremely urgent as the planning application for the Proposed Development is currently due to be considered and determined at the next committee meeting on Wednesday 15 January.

We are instructed by Rupert and Constance Mead of Church Cottage, Church Lane, Windrush OX18 4TT, along with their neighbours Piers and Carla Pether of Southview, Pat and Mike Pretty of Hill House and Tony and Valerie Mortlock of The Laurels, to register their concerns regarding the Proposed Development. All of our clients have previously submitted objections to the Proposed Development highlighting the detrimental environmental impact that the Proposed Development will have on nearby properties, the Windrush Conservation Area ("WCA") and the wider Cotswold Area of Outstanding Natural Beauty ("AONB"), as well as a number of specific concerns relating to loss of amenity for local residents. Our clients' previous objections also pinpoint some of the various errors and deficiencies in the information submitted by the applicant, both in the original submission and in subsequent amendments (of which there have been several).

Our clients are concerned that, despite the seriousness of their objections, your authority is considering approving the Proposed Development subject to conditions. This would seem to be both contrary to the National Planning Policy Framework ("NPPF") and the relevant policies of the recently adopted Cotswold District Local Plan 2011-2031 ("CDLP"). Windrush is one of the finest and most unspoilt villages in the Cotswolds and the Proposed Development, on a highly visible raised grass bank located on the main access into the village from the A40, would cause irreparable harm.

Having reviewed the application documents, the officer's recommendation for approval dated 13 November 2019 and the relevant planning policy, we agree that the Proposed Development would cause harm to the AONB and have a detrimental impact on the character and appearance of the WCA, contrary to the NPPF and the CDLP. Moreover, we consider that the planning officer has erred in



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assessing the level of harm caused, and that the recommendation for approval is therefore unsound. This letter therefore seeks to reiterate some of our clients' main objections and to draw your attention to the failings of the application in question. It is accompanied by an independent highways report (Appendix 1), and an independent acoustic report (Appendix 2a and 2b), both of which have been commissioned by our clients in order to impress upon both your authority and Gloucestershire County Council ("GCC") the very real level of harm that the Proposed Development will cause, if approved. Copies of these reports have already been submitted to your authority independently.

This letter does not address a number of our clients' other valid grounds of objections, including the failure of the application to comply with the Cotswold Design Code. This is because we consider the points set out in this letter to be sufficient in themselves for the application to be refused. For full details of the additional grounds, we would refer you to our clients' previous objections (copies of which are available on the planning portal).

## 1. BACKGROUND

The current application for a joinery workshop is the fourth attempt by the applicant since 2013 to obtain planning permission for the application site<sup>1</sup>. All three previous applications have been refused planning permission by your authority, with the most recent application for the erection of a garage having also been dismissed on appeal (Appeal Ref: APP/F1610/W/15/3005983) ("the 2015 Appeal"). The reasons for refusal in each case all state that development in this location would be inappropriate as it would result in sporadic development in the open countryside, outside of a sustainable settlement with a defined development boundary, contrary to previously adopted Local Plan Policies 19 and 24 and Paragraph 28 of the NPPF. Two of the decision notices also state that development in this location would prejudice highway safety, as well as having a harmful impact on the WCA.

The Planning Inspector's decision letter in respect of the 2015 Appeal contains the most detailed reasons for refusal, concluding in no uncertain terms that the application site is not a sustainable location for development and that the proposal in question would cause "*significant harm*" to the character and appearance of the area. The Planning Inspector further held that the proposal would fail to conserve and enhance the natural beauty of the AONB or the character and appearance of the WCA. Although the harm identified was considered "*less than substantial harm*" for the purpose of paragraph 134 of the NPPF, the Planning Inspector did not consider that any public benefit had been identified which would outweigh this harm.

These previous decisions, and in particular the 2015 Appeal decision, are material planning considerations in the consideration of the current application and should accordingly be given weight in the decision making process.

The planning officer's recommendation in respect of the current application ("the Report"), seeks to distinguish the Proposed Development from these previous applications on the basis that:

<sup>1</sup> For previous applications see Ref. No: 13/03424/FUL, Ref. No: 13/04318/FUL and Ref. No: 14/03623/FUL



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- (a) the policy considerations (Policy 19 and 24) at the time of the previous applications are materially different to the considerations now given to economic development proposals under current CDLP Policy EC3;
- (b) the application site can now be considered to be within the settlement and “visually relates well” to the existing built character of the village;
- (c) the creation of an employment opportunity (in the form of one apprentice) would be considered a public benefit sufficient to outweigh the identified harm to be caused by the Proposed Development; and
- (d) the applicant’s topographic survey and visibility splay diagram now demonstrate that the Proposed Development would maintain highway safety.

Our clients disagree with these statements in the strongest terms, and cannot identify any significant changes in circumstances or in policy that would warrant a different conclusion being reached in respect of this application. A detailed analysis of each of the officer’s statements is set out below.

We would also add that the Report does not properly summarise or address our clients’ objections. This is contrary to government guidance, which states that officer reports should be accurate and should include the substance of any objections and other responses received to the consultation. Our clients are therefore concerned that the officer did not read or understand all of the key points made by objectors and that, if Committee members are relying on the Report (as they are entitled to do so), there is a risk that they will not have a proper understanding of the points made by objectors.

## 2. POLICY CONSIDERATIONS (POLICY EC3)

As detailed above, the officer considering the Proposed Development sought to distinguish the current application from previous applications on the basis that the policy considerations now given to economic development proposals under current CDLP Policy EC3 are materially different from those under the previously adopted Local Plan Policies 19 and 24. Our clients disagree with this interpretation.

Policy 19 of the previously adopted Local Plan (2001-2011) sought to restrict development in rural settlements and the countryside to development that is appropriate to a rural area. Policy 24 sought to encourage employment-related development within the main employment areas and settlements, but not within the open countryside. Whilst current CDLP Policy EC3 does enable small-scale employment development appropriate to the rural area to a greater extent than previous policies, paragraph 9.3.4 of the supporting notes makes clear that such development will only be supported in “appropriate locations” where it is “in keeping in terms of scale, size and function with the location”. Furthermore, Policy EC2 echoes previous Policy 24 by seeking to encourage employment-related development within established employment sites. Paragraph 9.2.4 states that:

*“in an area with scattered settlements and sensitive environmental considerations, it is important that, wherever possible, established employment sites and premises, in towns and villages especially, should be retained. Maximising the use of these sites reduces the need for the development of new sites*



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*particularly on the edge of villages or within the countryside and seeks to maintain and enhance a strong economic community."*

The application site is just such a site – located in a prominent position in open countryside on the edge of a village, with sensitive environmental considerations (including the AONB) – and is thus not an "appropriate location" for the Proposed Development.

### 3. THE APPLICATION SITE

In her Report, the planning officer considering the Proposed Development states that the application site can now be considered to be within the settlement and "visually relates well" to the existing built character of the village. Our clients disagree with this statement in the strongest terms.

The application site is on raised ground in a highly visible, rural and sensitive location, on the main access into the village of Windrush from the A40, and within the WCA and AONB. The site is outside of a sustainable settlement with a defined development boundary, and in terms of planning policy should therefore be treated as open countryside. Both your authority and the Planning Inspectorate previously held this view, as evidenced by the various historic refusals detailed above.

The planning officer's assertion that the application site can now be considered to be within the settlement of Windrush appears to be based on a statement made in the applicant's Planning, Heritage, Design and Access Statement. This alleges, at paragraph 7.15, that there has been a material change in the character and appearance of the application site since the previous planning applications:

*"the neatly maintained beech hedgerow to the north of the site has been planted since previous planning applications were considered. As a result the appearance of domestic curtilage now more clearly extends to the site boundary."*

A similar statement was made in the Planning Officer Advice Note dated 29 January 2019, which was prepared following a pre-application meeting with the applicant<sup>2</sup>. The advice note states that:

*"..since the 2015 appeal, it is noted that the property to the north have enclosed their garden land with a post and rail fence and manicured beech hedge. At the time of the appeal the boundary of that property was defined by a verge hedgerow and was not domesticated in appearance which added to the rural character of this part of the settlement. The now domesticated edge of the settlement to the north of the site changes the landscape setting of the site to that which was considered in 2015. As such I am of the opinion that the introduction to the site of small scale timber building would not result in a detrimental impact to the character or appearance of the area subject to final design and landscaping."*

It is clear from this that the planning officer has placed great weight on the alleged boundary changes, and it forms the basis of her conclusion that the Proposed Development would no longer result in the encroachment of development into the open countryside. The officer even states in her Report that "due to the change in character and appearance of the area since the appeal decision it is considered

<sup>2</sup> Our clients, Mr and Mrs M Pretty, obtained a copy of this document following a Freedom of Information request.



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that the proposal would not now result in an encroachment of development into the countryside or have an adverse impact on the AONB in this village location". This is a material error, which calls into question the validity of the entire recommendation. There has been no change in the boundary treatment to the north of the site since previous planning applications. This has already been confirmed to your authority in writing by our clients, Piers and Carla Pether (who own the neighbouring property, Southview)<sup>3</sup>. It is also evidenced in the Design and Access Statement submitted on in August 2014 in respect of the application considered on appeal (Ref. No: 14/03623/FUL). The photographs attached to the Design and Access Statement show the existence of the beech hedgerow at the time of that application.

We are surprised that, given the extent of her reliance on the alleged boundary treatment in her recommendation, no effort has been made by the planning officer to date to correct the factual error in the Report, nor to amend her own conclusions accordingly. Indeed, our clients' letter informing the officer of her error has not even been uploaded to the online portal. Failure to update the Report before the meeting of the planning committee would have the effect of significantly misleading the committee about a material matter, thus creating a strong ground for judicial review<sup>4</sup>.

(a) AONB

Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing AONBs, "*which have the highest status of protection*". Policies EN4 and EN5 of the CDLP support this.

The applicant states in its Design and Access Statement that, due to its small scale and extensive tree cover, the Proposed Development "*is not expected to impact upon any wider views or upon the general character of the AONB*". As such, the applicant's view is that the Proposed Development would not have a detrimental impact on the special character of the AONB. Our clients disagree with this conclusion. The application site is a highly visible raised grass bank, and the Proposed Development would be isolated, with no physical relationship to any of the surrounding buildings. There are no changes being proposed to the levels of the site that would make the Proposed Development markedly less visible than the development proposed in previous applications. The detrimental impact of development on this site was clearly highlighted by the Planning Inspector in the 2015 Appeal, who concluded that "*due to its location the proposal would...fail to conserve and enhance the natural beauty of the Cotswold AONB*" and would thus conflict with the NPPF. The Proposed Development would have exactly the same visual impact.

(b) Conservation Area

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This is reiterated in Policy EN11 of the CDLP. Policy EN10 states that, in considering proposals that affect a designated heritage asset or its setting, great weight must be given to the asset's conservation.

<sup>3</sup> We note that the officer has not provided a substantive response to our clients on this point, nor has our clients' letter been uploaded to the online planning portal.

<sup>4</sup> Oxtou Farms, Samuel Smiths Old Brewery (Tadcaster) v Selby District Council (18 April 1997) 1997 WL 1106106



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The Proposed Development would not preserve or enhance the character or appearance of the WCA, and would in fact cause harm as the proposal is visually prominent at the entrance of the WCA. This is expressly acknowledged in the officer's Report, where she states that "*the proposals would introduce development and therefore result in harm to this part of the Conservation Area*". The officer attempts to underplay the level of harm caused by again referring to the change to the character and appearance of the lane and the WCA resulting from the alleged boundary treatments at Southview. As discussed above, this is a material error as the garden boundary treatments on this property have not changed since the previous applications. The Proposed Development would therefore constitute an incongruous and harmful form of development which would fail to preserve or enhance the character and appearance of the WCA.

#### 4. PUBLIC BENEFIT

One of the key arguments made by the planning officer, in her Report, is that the current application for the Proposed Development should be distinguished from the previously refused applications on the basis that the Proposed Development offers an employment opportunity sufficient to outweigh any harm caused to the WCA. The officer is specifically referring to the applicant's intention to employ an apprentice in the future. The applicant states in the application documents that this will be possible if the Proposed Development is approved, as the applicant will no longer be paying rent on his current premises and could therefore invest in training and employing an apprentice.

Paragraph 196 of the NPPF states that where a proposed development will lead to "*less than substantial*" harm to a designated heritage asset, such as a Conservation Area, that harm should be weighed against the public benefits of the proposal. CDLP Policy EN10 states that harm will not be permitted "*unless a clear and convincing justification of public benefit can be demonstrated to outweigh that harm.*"

In this case, there is no doubt that the provision of a new apprentice role could be deemed to be a public benefit. However, our clients do not consider that the purported benefit in this case is either certain or substantial enough to outweigh the clear harm posed by the Proposed Development. The Courts have held that a public benefit does not need to be certain to be taken into account by a decision maker when considering paragraph 196 of the NPPF.<sup>5</sup> However, in this case, the applicant's stated intention to take on an apprentice is the only material change from the previously refused application for a joinery workshop on the site. Furthermore, CDLP Policy EN10 requires "*a clear and convincing justification of public benefit*" to be demonstrated to outweigh the harm caused. The likelihood of an apprentice actually being taken on should therefore be considered.

The applicant's stated intention is not secured by condition or planning obligation, nor is there any practical evidence to support such an intention, such as a business plan or any proposed infrastructure. Neither the ground floor plan drawing nor the Design and Access Statement submitted with the application refer to facilities to be provided for staff within the workshop, including provision of a toilet or sink. There is no parking provision for the intended apprentice. Compliance with condition 7 of the draft planning permission (requiring all windows and doors to be kept closed), would not only be

<sup>5</sup> Tower Hamlets LBC v Secretary of State for Housing, Communities and Local Government [2019] EWHC 2219 (Admin)



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unenforceable, but also a breach of workplace conditions in the height of summer. On that basis, our clients consider it extremely unlikely that an apprentice will actually be taken on at all.

Furthermore, the scale of the public benefit that would arise from the Proposed Development (even if an apprentice was taken on), would be of negligible weight in the scales against the detriment which would be caused to the WCA.

## 5. HIGHWAY CONCERNS

Following the provision of the applicant's topographic survey and visibility splay diagram, the planning officer appears to be satisfied that the Proposed Development would maintain highway safety. However, our clients have some serious concerns regarding this.

The application site is located on an unnamed single-track lane, which provides the main access to/egress from the village. The lane is very narrow and susceptible to snow and ice in winter. Two of the previous applications in respect of the site were refused on the basis that the development would prejudice highway safety, and there is a clear lack of detail in the current application documents about the parking and turning arrangements on site, the gradient of the access into the site from the lane and parking for delivery lorries. The amended Site Plan drawing (July 2019) is misleading as it omits trees and vegetation not within the applicant's ownership, and the proposed revised parking area is so small and of such a shape that it would be extremely difficult for even one small vehicle to turn in that area, let alone a larger delivery vehicle. Our clients were therefore very surprised to discover that GCC highway officers had no objections to the Proposed Development.

Our clients have now commissioned an independent highways report, a copy of which is attached at Appendix 1. We would urge you to read the report thoroughly. The report details a number of clear technical deficiencies with the Proposed Development from a highways perspective – namely:

- (a) That appropriate visibility cannot be achieved upon egress from the site;
- (b) That it has not been proven that a safe access can be delivered;
- (c) That the proposed site layout does not afford safe access and egress in forward gear; and
- (d) That the proposed site layout does not afford the ability for safe servicing to be undertaken.

Our clients therefore consider the Proposed Development to be contrary to paragraph 109 of the NPPF and CDLP Policy INF4 which requires "*safe and suitable access*".

## 6. NOISE

Our clients have now had the opportunity to review the noise report prepared by Hepworth Acoustics on behalf of the applicant, and have instructed Aulos Acoustics to provide some comments on this. A preliminary acoustic report was submitted by Carla Pether on 18 December and is attached at Appendix 2a. The full report is now attached as Appendix 2b.



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The reports confirm that the applicant's noise report understates the impact of the Proposed Development on the amenity of local residents, and that the adverse impact would be greater than described. In particular, please note the following:

- (a) the proposed building construction and design would not be capable of controlling initial sound emissions to the standard required to limit adverse impact;
- (b) such a workshop is equivalent to a vehicle workshop or metalworkers in terms of the sound levels and noise generated. These are among the high risk groups for hearing protection and noise control and should be considered in planning as high-risk for detrimental or adverse effects on residential properties and other sensitive uses;
- (c) the applicant's acoustic report downplays the peaceful conditions in the area, and overemphasises the impact of background noise from the A40;
- (d) the measured equipment noise in the applicant's acoustic report does not take into account wood types or cut depths which can cause gross variations in noise. The applicant's acoustic report also omits to mention the bandsaw/re-saw, which has the potential to be one of the loudest pieces of equipment;
- (e) the applicant's acoustic report does not take into account the possibility of an apprentice, which would result in higher activity and noise levels, as well as the risk of open doors and windows;
- (f) there is a lack of substantive details and calculation in the applicant's acoustic report (including calculation of sound transfer, sound transmission or nominal sound insulation performance or any detail regarding mitigation measures) which leads to significant uncertainty. The mitigation measures described are generalised and non-specific; and
- (g) no layout has been provided showing the positioning of equipment within the Proposed Development. This can cause huge variations in noise, due to the proximity of equipment to walls/windows etc.

In short, there are significant areas of uncertainty in the applicant's assessment that have not been addressed and an optimistic assessment has been presented. This is not appropriate for a normal application for commercial units near suburban or urban residents, let alone in an exceptionally quiet area. The applicant's report does state that the impact assessment depends on context, but they do not discuss that context. As Aulos Acoustics' report makes clear, the context is of great significance in this case, and such a quiet and tranquil area is worthy of protection.

Aulos Acoustics' full report concludes that the fall in tranquillity perceptions and the expected impact assessment under BS4142 that would result from the proposed development indicate a high impact on the residents and residential property. As they state on page 11 "the impulsive, intermittent, tonal and other distinctive elements of joinery workshop noise would be expected to ensure a high degree of perceptibility and high impact. Significant adverse effects on the perceptions of the area as tranquil would result, with the attendant changes to relaxation, concentration and amenity. Residents would be expected to change behaviour to avoid sound and where it could not be avoided, to be disturbed or become annoyed, with the effects on well-being and health that result". The provision of such a change of use would remain in perpetuity leading, potentially, to the continual presence of a high noise impact use in what was previously an exceptionally quiet residential area.



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We would ask that you read the Aulos Acoustics report dated 4 January 2020 carefully alongside the applicant's acoustic report for further details. Windrush is an incredibly tranquil rural village and the introduction of electronic machinery noise on a daily basis would have a significant detrimental impact on the intrinsic character of the area, contrary to CDLP Policy EN4.

## 7. CONCLUSION

Our clients are of the view that the Proposed Development would have a detrimental impact on the AONB and would cause irreparable harm to the character and appearance of the WCA, contrary to the NPPF and the CDLP. The planning officer has erred in assessing the level of harm caused because of misinformation regarding the neighbouring boundary treatment. This is a material error, which has not been corrected. The officer's recommendation for approval is therefore unsound, the level of harm is understated and is not outweighed by the purported public benefit, which is uncertain and at best insubstantial. Failure to update the Report before the meeting of the planning committee would have the effect of significantly misleading the committee about a material matter, thus creating a strong ground for judicial review. Our client's additional concerns in relation to highway safety and noise are supported by the reports attached.

Given the above, our clients' and our strong opinion is that the application for the Proposed Development should be refused. As Planning and Development Manager for the authority, we urge you to review the application documents and our clients' objections properly and urgently, alongside the relevant planning policy. We would reiterate that the planning application for the Proposed Development is currently due to be considered and determined at the committee meeting on Wednesday 15 January and suggest that consideration of the application by the planning committee should be pushed back once again in order to allow this full review to be carried out and a revised Report prepared.

Yours faithfully

Forsters LLP

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