

<b>Application</b> 09/00719/F	<b>No:</b>	<b>Ward:</b> The Astons And Heyfords	<b>Date Valid:</b> 29.05.09
<b>Applicant:</b>	Burgess & Sons		
<b>Site Address:</b>	Souldern Gate Garage Souldern Bicester Oxfordshire OX27 7JL		

**Proposal:** Retrospective: Use of existing land and buildings for commercial/storage uses including three open yards. Improvements to visibility of existing accesses and landscaping/fencing.

## 1. Site Description and Proposal

- 1.1 This 0.75ha site is located to the south east of Souldern off the B4100 which runs from Baynards Green to Aynho. Sitting on the brow of a hill the site occupies a prominent position and given the limited landscaping on some boundaries it is currently visible from the public domains of the main Aynho-Bicester road and the road to Tusmore. The site was last used by Volvo Truck & Bus Ltd who occupied the site until earlier this year using the site for the repair of HGVs with parking between the building and the road.
- 1.2 The site has a varied and complicated history which begins in 1981 with the granting of planning permission for a coach workshop and other buildings under CHS.246/81. Whilst 2 No. buildings were erected as part of this development this Council contacted the then occupiers in 1997 and 1999 advising that it was unlikely that this permission was lawfully started as the buildings on the site are not in the correct position. No applications to challenge this position have been submitted to this Council for consideration and given the length of time the use has operated enforcement action would not be appropriate.
- 1.3 A further 2 No. planning applications were considered in 1997 and 1999 for further developments involving new build at the site (97/02053/F and 99/01395/F) but were withdrawn prior to a decision as they were to be recommended for refusal on grounds of detrimental impact on the character and appearance of the area and the wider landscape.
- 1.4 This application seeks retrospective planning permission for the use of the land and buildings for commercial and storage uses including 3 No. open yards. The layout drawing (as amended) shows the retention of the building which will be shared by Burgess & Sons (reclamation and demolition), A.E.Prentice (coal and wood merchants) and K.Services (scaffolder). 7 No. coal bays at a height of 1.5m, 1 No. wood bay at a height of 1.7m and a portakabin are proposed on the forecourt for A E Prentice.
- 1.5 The application also seeks to amend the access arrangement to increase the visibility of both existing access points by realigning the existing front boundary line. New planting and landscaping is proposed together with a 2.3m high green mesh fence.

## 2. Application Publicity

- 2.1 The application was advertised in the local press and a site notice was posted. The final date for comment is 10<sup>th</sup> July 2009.
- 2.2 No representations have been received at the time of writing the report.

## 3. Consultations

- 3.1 Souldern Parish Council - **objects** to the application on the following grounds:
  1. Increase in traffic movements from 3 No. businesses. The evidence produced on the traffic figures from the Volvo garage has been overestimated. The new uses include retail sales which will lead to increased traffic. Also the uses proposed will lead to heavily laden vehicles onto a B road which carries a significant volume of traffic often traveling at the speed limit. The addition of a new access is a further hazard. We do not wish to see more fatalities along this stretch of road.
  2. A new retail outlet has been introduced onto the site. The application only seeks commercial uses.
  3. The reasons used to refuse these operators from the Chesterton site apply equally to this site i.e. that the site is not served by public transport; the site will not meet the local economic, social or employment needs of Souldern residents; excessive traffic in the immediate vicinity and a substantial change in the character and appearance of the open countryside which contributes to the rural setting of Souldern.
  4. Although there are plans to landscape the site, it will take many years before native hedges will grow sufficiently to obscure the site and it is now looking very much more like an industrial site in a rural setting than it did before.
  5. The site does not have planning approval and there has been no consultation with local people. Whilst we recognise and sympathise that these businesses had to leave their Bicester site, they have been 'dumped' on us by the local authority without proper planning consideration.
- 3.2 Oxfordshire County Council Highway Authority – **no objection** subject to standard conditions as indicated in Section 6. They make the following comments:
  1. Traffic Impact: the expected level of traffic is lower than that of the previous use so the net traffic generation is minimal and unlikely to be of detriment to highway capacity and road safety. The amount of HGV traffic is likely to be less than the previous use. But notwithstanding that, a Travel Plan should be submitted to demonstrate that the development has included measures and action plan to encourage the use of sustainable travel modes to improve the accessibility by sustainable travel and to reduce the dependence on cars for travel.
  2. Sustainability: Whilst the location is not desirable in terms of accessibility by sustainable travel modes for the work related journeys, the site has been used as an employment site during its previous use as Volvo's commercial vehicle centre. Provided that the amount of new (or additional) traffic following the development is not significant it would be difficult to justify a refusal on sustainability grounds.
  3. Proposed highway improvement: The relocation of the fence line to provide minimum visibility splays of 2.4m by 160m at the two site accesses represent an improvement. However, directional signage is recommended.

- 3.3 Head of Safer Communities and Community Development – **no objection** to the proposal and no further comment.
- 3.4 Environmental Protection Officer (Contaminated Land) – **no objection** subject to recommended standard conditions set out in Section 6. Records show that there has been an old quarry in the north western side of the site and a garage in the south western section of the site. There is potential risk from these site uses to the current and further site users and the site is also underlain by a major aquifer.
- 3.5 Landscape Officer – comments awaited
- 3.6 Police Architectural Liaison Officer – **no objection** as reasonable steps are being taken to secure the site.

#### **4. Relevant Planning Policies**

- 4.1 South East Plan 2009 – Policies BE1, C4, T1, T4, T5, CC6 and RE3
- 4.2 Adopted Cherwell Local Plan – Policies C13, C28, ENV12 and EMP4
- 4.3 Non-Statutory Local Plan – Policies EMP4, TR3, TR4, TR5, TR11, EN17 and EN34
- 4.4 PPG13 – Transport

#### **5. Appraisal**

- 5.1 The key issues to consider in this case are:
- Assessment against principle policy EMP4
  - The history of the site
  - Impact on the landscape character and visual amenities of the area
  - Highway safety
- 5.2 Policies EMP4 of the adopted Cherwell Local Plan and the similarly worded Policy EMP4 of the non-statutory Local Plan address the issue of existing employment sites. Policy EMP4 of the adopted Cherwell Local Plan states:

IN THE RURAL AREAS, PROPOSALS FOR EMPLOYMENT GENERATING DEVELOPMENT OF THE FOLLOWING TYPES WILL NORMALLY BE PERMITTED:

- (A) WITHIN AN EXISTING ACCEPTABLE EMPLOYMENT SITE, INCLUDING REDEVELOPMENT;
- (B) CONVERSION OF AN EXISTING BUILDING OR GROUP OF BUILDINGS (PROVIDED THAT THE FORM, BULK AND GENERAL DESIGN OF THE BUILDINGS CONCERNED IS IN KEEPING WITH THE SURROUNDING AREA AND, IN THE CASE OF A BUILDING BEYOND THE LIMITS OF A SETTLEMENT, CAN BE CONVERTED WITHOUT MAJOR REBUILDING OR EXTENSION).
- (C) WITHIN, OR ADJOINING SETTLEMENTS, FOR A MINOR EXTENSION OR AN EXISTING ACCEPTABLE EMPLOYMENT SITE

PROVIDED THAT:

THE PROPOSAL AND ANY ASSOCIATED EMPLOYMENT ACTIVITIES CAN BE CARRIED ON WITHOUT UNDUE DETRIMENT TO THE APPEARANCE AND CHARACTER OF THE RURAL LANDSCAPE AND WITHOUT HARMING THE AMENITIES OF SETTLEMENTS OR THE SPECIAL CHARACTER AND INTEREST OF A BUILDING

OR ARCHITECTURAL OR HISTORIC SIGNIFICANCE.  
THE POLICIES OF OVERALL RESTRAINT OF GROWTH IN THE STRUCTURE PLAN  
ARE NOT BREACHED.  
THE PROPOSAL COMPLIES WITH THE OTHER POLICIES IN THE PLAN.

- 5.3 This policy is the main policy consideration for this application and it seeks to encourage economic activity in the rural areas of the district by identifying opportunities for employment generating development and in particular for small businesses. Provided the proposed business can be accommodated without detriment to the rural landscape, this proposal reflects general compliance with the policy (and that of non-statutory local plan policy EMP4), the individual aspects of which are addressed in detail below.
- 5.4 Section 1 of this report outlines the planning application history to the site and it is clear that for almost 30 years the site has been in some sort of employment generating use contained towards the southern part of the site (subject of the red line area of the site). This application represents an opportunity to ensure that this part of the site used for commercial purposes will not further extend northwards by establishing proper internal boundaries. Members will note that the Parish Council raise concerns about likely retail activities from Burgess and Sons but their core business is reclamation and demolition and the application does not seek permission for retail sales. If retail does occur then there is a tolerance level for some retailing provided it is ancillary to the core business and this is accepted in case law. Should any retail element cease to be ancillary, then enforcement action is an option where there is demonstrable harm. This issue has further been addressed by condition.
- 5.5 There is understandable concern with regard to the visual amenities of the area, given the site's prominence on the brow of a hill and its visibility from a wide area including the main B road and the road to Tusmore. In accordance with policies C13 and C28, only where sufficient landscape mitigation measures can be properly secured at the site would development of this nature be acceptable. Whilst the topography cannot be changed what is noteworthy is that from the most exposed view, i.e. the south west along the B road, the land drops into the site slightly by approximately 0.5m offering some assistance in this regard. The new activities at the site will not be above 2m in height. Standing HGVs within the site, at average heights of above 4m would have been taller and the storage heights for the new occupiers which is agreed at 2m is at a height where landscape screening required by condition would be effective.
- 5.6 At present the site is most visible from the south-west along the B road and this is because there is currently no boundary landscaping at all between the southern most access towards the phone mast. Sufficient landscaping exists along the short stretch of this same boundary between the southern access point and the southern corner of the site but this would need to be replaced to accommodate the proposed visibility splay. This application presents an opportunity to screen the site thereby improving the immediate environment. A comprehensive landscaping scheme is required by conditions which will also address other gaps in the screening to the rear of the site, along the north-eastern boundary. Views from the south east along the B road already demonstrate the effectiveness of proper boundary screening as the site is barely visible from this direction. Whilst comments from the Landscape Officer are yet to be received, early indications are that a 5m buffer of landscaping

would be required along this boundary for an effective and lasting screen. The applicants appreciate the importance of this aspect of their planning application and whilst landscaping details are lacking at this time, they seek certainty of a permission before making further financial commitments.

- 5.7 Turning to the highway safety issue, the users of the site anticipate a relatively small number of vehicle movements to and from the site and this has been compared to the volume of traffic (including HGVs) that used to be generated by the previous user. Oxfordshire County Council, as the Highway Authority, is satisfied that provided the alterations to the visibility splays from the access points are revised as shown on the submitted drawing then these highway safety measures are sufficient. The volume of retail sales which has been alleged would be created from Burgess and Sons, is discussed in part under paragraph 5.4 of this report but based on the current operation of the business this aspect is mainly an internet operation so there would be little if any traffic generated.
- 5.8 The site will remain in employment generating type use for relatively local business who wish to retain their customer base and offering continuity of employment to those associated with the Companies. The traffic generated is considered to be at acceptable and safe levels and associated aspects have been conditioned accordingly. The landscape impact and visual amenity issue can be also be improved by the opportunities presented by this application with a better screening and acceptable security fencing as part of the boundary treatment. Being a fairly remote location there will be no issues of an environmental nature in terms of noise, dust or fumes which are possible from these types of employment uses and by their very nature are better sited away from residential properties.

## **6. Recommendation**

**Approve subject to i) the receipt of comments from the Landscape Officer, and  
ii) the following conditions:**

- 1. SC1.4A Full Permission: Duration Limit (3 years) (RC2)**
- 2. That within 3 months of the date of this decision details shall be submitted to and approved in writing by the Planning Authority showing a turning area and 12 parking spaces (8 spaces for cars, 4 spaces for heavy vehicles) to be provided within the curtilage of the site so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway. The turning area and parking spaces shall be retained and unobstructed except for the parking and manoeuvring of vehicles at all times. (RC15AA)**
- 3. That the visibility spays shown on the drawing shall be provided on both sides of the two site accesses within one month of the date of this decision and the area contained within the spays shall be kept free of any obstruction exceeding 1 metre in height above the nearside channel level of the carriageway. (RC13BB)**
- 4. That within 3 months of the date of this decision a Travel Plan shall be submitted to and approved in writing by the Planning Authority. Thereafter it shall be implemented in accordance with the agreement and shall remain in**

use at all times unless previously agreed in writing by the Local Planning Authority. (Reason: To promote sustainable modes and travel planning in accordance with Policies T1 and T5 of the South East Plan).

5. Unless otherwise agreed by the Local Planning Authority, within 3 months of the date of this decision, point 1 within this condition as detailed below shall be actioned. Following that assessment, should points 2 and 3 prove necessary these will be actioned as agreed in writing by the Local Planning Authority. If unexpected contamination is found after any further development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until point 4 has been complied with in relation to that contamination.

#### **1. Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

#### **2. Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### **3. Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any further development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

**4. Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of point 1 above, within a proposed timescale subject to written approval by the Local Planning Authority, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of point 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.

(Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ENV12 of the adopted Cherwell Local Plan.)

6. That the open storage on the site shall not exceed a height of 2.0m unless otherwise agreed in writing by the Local Planning Authority. (RC10A)
7. SC3.0A Submit Landscaping Scheme (RC10A). To be submitted within 1 month of the date of this decision.
8. SC3.1A Carry Out Landscaping Scheme and Replacements (RC10A)
9. SC3.7BB Submit Boundary Enclosure Details (RC10A) (including internal boundary treatments) To be submitted within 1 month of the date of this decision.
10. That except to allow for the means of access and vision splays the existing and proposed hedgerow/trees along the south-west boundary of the site shall be retained and properly maintained at a height of not less than 2.3 metres, and that any hedgerow/tree which may die within five years from the completion of the development shall be replaced and thereafter be properly maintained in accordance with this condition. (RC11A)
11. That the site and premises shall be used only for purposes falling within

**Class B8 specified in the Schedule to the Town and country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purposes(s), including retail, whatsoever. (RC34AA)**

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

**The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal re-uses an existing redundant employment site, has no adverse impact on any residential amenity, has no adverse impact on the visual amenities of the area nor is it detrimental to highway safety. As such the proposal is in accordance with Policies BE1, C4, T1, T4, T5, CC6 and RE3 of the South East Plan 2009 and Policies C13, C28, ENV12 and EMP4 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.**

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