Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

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<th><strong>Application Number:</strong> 15/03386/COU</th>
<th><strong>Parish:</strong> Oswestry Rural</th>
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**Proposal:** Change of use from B2 to a mixed use of B1, B2 and B8 (storage)

**Site Address:** Richardson Bros Brookside Morda Oswestry Shropshire

**Applicant:** Mr H Richardson

**Case Officer:** Janet Davies   **email:** planningdmnw@shropshire.gov.uk

**Grid Ref:** 328995 - 328048
Recommendation:- approval subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL
1.1 The application seeks planning approval for the change of use of 2 Brookside Mill, Morda from the existing class B2 use (Joinery Workshop) to a mixed use of class B1 (office), B2 and B8 (Storage).

2.0 SITE LOCATION/DESCRIPTION
2.1 The application site relates to a large, established workshop premises of steel frame and block walled construction located to the south of a no through, unmade access road off the B5069 within the village of Morda.

2.2 The proposal relates to the eastern half of the building with a floor area measuring approximately 363sq metres. Access is provided via a roller shutter within the east gable off an enclosed yard which currently provides parking for around 20 light goods vehicles and/or public carrier vehicles. The western half of the building, not forming part of the application site, is currently occupied by Cheesman Motor Repairs.

2.3 Internally the building comprises a large open workspace for the most part of full height with smaller rooms provided on galleried upper levels at either side.

2.4 To the north west of the application site are terraced cottages (Brookside) and to the west Brookside Mill, a detached cottage all of which are located on either side of the approach lane. Meadowbrook Cottage is situated immediately to the south east of the building and is the nearest affected neighbouring property at distance of around 25m from the application building. An additional property, Blue Court Cottage, is located to the north west at the far end of the lane.

2.5 The River Morda runs immediately to the south. To the north, on the other side of the lane is a small area of garden land beyond which is an open field.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1 The applicant is married to a member of staff currently employed within the Development Services section of Shropshire Council and therefore under the Shropshire Council scheme of delegation the application is required to be determined by planning committee.

4.0 Community Representations
4.1 - Consultee Comments
4.1.1 SC Drainage – no objection subject to informative relating to flood resilience measures on account of the site being within flood zone 2.

4.1.2 SC Highways – no objection on the basis that the site premises enjoys the benefit of an unrestricted B2 Use Class. The highway authority consider that an
objection to change of use of the building to B1, B2 & B8 would be difficult to substantiate.

4.1.3 SC Public Protection – No objection but recommend a condition is placed to limit operating hours to that currently held on site or on neighbouring sites to ensure noise at night and at weekends etc. is not likely to increase should this application be granted approval.

4.2 - Public Comments
4.2.1 None received at time of writing.
4.2.2 Any further comments received prior to Committee shall be reported at the meeting.

5.0 THE MAIN ISSUES
☐ Principle and Suitability of Proposed Uses for the Site
☐ Amenity

6.0 OFFICER APPRAISAL
6.1 Principle and Suitability of Proposed Uses for the Site
6.1.1 The proposal is for the change of use of the existing established commercial workshop currently under B2 (General Industrial) use to include additional uses B1 (Office) and B8 (Storage).

6.1.2 It is explained that the proposed change of the use is intended to facilitate the building’s sale and commercial reuse and that the commercial property has been marketed for sale for nearly 3 years. Enquiries from prospective purchasers have indicated they would require flexibility in the future use of the site.

6.1.3 The current B2 use relates to general industry and includes industrial processes other than ones falling within class B1 (office). This includes light industries as opposed to the heavier industrial processes generally covered under use classes B3 to B7.

6.1.4 The proposed B1 building use encompasses all or any of the following purposes:

(a) as an office other than a use within class A2 (financial and professional services),

(b) for research and development of products or processes, or

(c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

6.1.5 Under the General Permitted Development Order (GPDO) 2015 certain changes between classes are permitted without the need for planning permission. General industrial use (B2) can be changed to B1 business use without the need for planning permission provided the area affected is limited to 235 sq m of floor space. In this case the affected floor area measures 363 sq metres in
exceedance of the permitted limit and therefore planning permission is required.

6.1.6 The proposed B8 use relates to storage or distribution and also includes for open air storage.

6.1.7 Policy CS13 of the Shropshire Core Strategy encourages the development and diversification of the economy of Shropshire whilst Policy CS5 provides scope for the retention and appropriate expansion of existing established businesses provided other criteria contained within the Strategy are met.

6.1.9 The application site comprises a typically large purpose built commercial building and enclosed yard. It is stated that the proposal does not involve any proposed alterations to either the building or the overall site layout and it is considered that the proposed new uses could be accommodated within the existing premises.

6.1.10 In terms of the proposed storage/distribution use although the site includes existing parking for around 20 light goods vehicles and/or public carrier vehicles the unmade nature of the access road and proximity of residential properties, particularly those alongside the access road, entails that the site does not readily lend itself to the use of large heavy goods vehicles. If approval were to be granted it is recommended that this issue be dealt with by way of an appropriately worded condition limiting the scale of vehicles regularly visiting the site as part of any approved operation.

6.1.11 The Council’s Highways Officer has been consulted on the proposal and commented that on the basis that the site premises enjoys the benefit of an unrestricted B2 Use Class, the highway authority consider that an objection to change of use of the building to B1, B2 & B8 would be difficult to substantiate.

6.1.12 Furthermore, it is also noted that whilst the lane is in a relatively poor condition access from the main road (B5069) is within a 30mph zone and along a relatively straight section of road.

6.1.13 The proposed change of use is considered to generally accord with the relevant policy framework as set out within Core Strategy policies CS5 and CS13.

6.2 Amenity

6.2.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Core Strategy advocates that development should seek to safeguard residential and local amenity and given the close relationship between the existing commercial building and the surrounding residential properties the policy is particularly relevant to the consideration of this application.

6.2.2 The access lane to the application site also serves a number of residential properties, the nearest affected being Meadowbrook Cottage to the south west some 25m away. Ancillary domestic land is also located to the north of the site on the other side of the lane.

6.2.3 In view of the proximity of residential dwellings to the site the Council’s Public Protection Officer has been consulted on the proposal. It is recommended that a
condition be placed to limit operating hours to that currently held on site or on neighbouring sites to ensure noise at night and at weekends etc. is not likely to increase should this application be granted approval.

6.2.4 The current B2 general industrial use means that the potential for the proposed new uses to generate any greater noise or odour nuisance is deemed to be comparatively low. B2 allows for a range of light industrial uses which could have greater implications for the amenity of neighbouring properties. The proposed office and storage uses are generally accepted to be fairly low intensity type uses with few ‘bad neighbour’ type implications. It is considered that any harmful effects would most likely be as a result of any traffic related issues from vehicles visiting the site particularly in connection with a storage and distribution type use as referred to under paragraph 6.1.10 where it is recommended that any such issues could be controlled by way of condition.

6.2.5 Officers are therefore of the view that the proposed change of use would not result in any significant additional harm to the amenity of surrounding residential properties.

7.0 CONCLUSION

7.1 The proposed change of use of the site to include for B1 and B8 uses alongside the existing B2 use is considered to be appropriate in this location. The proposal is deemed to have minimal impact on the character and appearance of the area and is considered unlikely to result in unacceptable impact on the residential amenities of neighbouring properties. Therefore the proposal is deemed to be in accordance with the NPPF and policies CS5, CS6 and CS13 of the Shropshire Core Strategy and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.
Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:
CS5 – Countryside and Green Belt
CS6 – Sustainable Design and Development Principles
CS13 – Economic Development, Enterprise and Employment
11. Additional Information

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<th>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</th>
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| **Cabinet Member (Portfolio Holder)**  
Cllr M. Price |
| **Local Member**  
Cllr Joyce Barrow |
| **Appendices**  
APPENDIX 1 - Conditions |
APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

   Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The change of use hereby approved and any subsequent operations shall relate primarily to the use of light goods vehicles and/ or public carrier vehicles as opposed to the regular use of heavy goods vehicles.

   Reason: To safeguard the amenity of neighbouring properties.

4. The use hereby permitted shall not be carried out before 8am Monday -Fridays and 9am on Saturdays nor after 6pm on weekdays and 5pm on Saturdays; nor at anytime on Sundays , Bank or Public Holidays.

   Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.