

Addington
Downs And Mereworth

28 September 2016

(A) TM/16/02318/FL
(B) TM/16/02947/RD

Proposal:

(A) Section 73 application to vary condition 6 (Opening hours) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

(B) Details submitted in pursuant to condition 7 (Lighting) of Planning Permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

Location: Big Motoring World London Road Addington West Malling Kent ME19 5PL

Applicant: Big Motoring World

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1. Description:

- 1.1 Applications (A) and (B) for Big Motoring World are inter-related and therefore have been presented together within this single report.
- 1.2 Application (A) proposes to make changes to Condition 6 (Operating hours) of the original planning permission (TM/10/00938/FL) under Section 73 of the Town and Country Planning Act 1990 (as amended).
- 1.3 An application under Section 73 is, in strict legal terms, an application “for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted”. In dealing with such an application, the local planning authority may refuse the application (in which case the pre-existing condition(s) will remain in force) or grant permission subject to conditions that are different from those that appear on the previous permission.

The precise form of those “new” conditions need not necessarily match any wording proposed by the applicant and in that sense this is not, strictly, an application to “vary” the relevant conditions to achieve specific ends. However, any conditions that are imposed must meet all the “tests” that apply to any other case where conditions are contemplated. Moreover, the legislation requires that the local planning authority can only consider the question of the conditions subject to which permission should be granted – in other words the principle behind the initial permission itself cannot be re-visited.

- 1.4 The condition proposed to be changed relates to the hours of operation of the motor vehicle sales yard. This condition currently states that:

The business shall not be carried on outside the hours of 08.30 to 18.00 Mondays to Saturdays and 10.00 to 16.00 on Sundays and Bank and Public Holidays unless otherwise approved by the Local Planning Authority.

The applicant has applied to extend the hours of operation of the use to 08:00 to 21:00 Monday to Friday and 08:00 to 18:00 Saturday, Sunday and Bank and Public Holidays.

- 1.5 The extended hours beyond 6pm would be for car sales and office administration only. It has been confirmed that the last sales appointment will be 7pm and that all viewing and test driving of cars will be completed and the gates to the car display/storage area closed by 9pm. The lighting to the car display area would also be switched off at 9pm. The completion of any sale and other administrative activities would be undertaken in the office building up to 9.30pm. Staff and customers would leave the premises by 9.30pm.
- 1.6 It has been confirmed that no repairs, valeting or delivery of cars will take place after 6pm on any day. It has also been advised that delivery of cars to the premises is no longer undertaken by a HGV transporter but rather driven to the site from the Snodland base. There are also now no workshops on the site. This information clearly indicates that the way in which this business operates has evolved considerably since it first occupied the site.
- 1.7 The applicant has outlined in the supporting information that the proposed extended hours of trading amount to approximately 35% of turnover and that without the additional hours there would be substantial job losses (estimated 70 jobs) and loss of revenue that would impact the local economy.
- 1.8 It has been stated that Big Motoring World is internet based, responding to the role that modern technology plays in people purchasing second hand cars. It acknowledges that these days many customers research vehicles for sale on-line before visiting car sales premises. The business therefore predominantly operates a by-appointment, where booking can be made on-line or by phone.

- 1.9 Application (B) submits lighting details in order to discharge the requirements of Condition 7 of the original planning permission (TM/10/00938/FL). Condition 7 states that:

No external lighting shall be erected within the site until details of such lighting has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

- 1.10 A supporting letter covering both applications, a lighting strategy plan, lighting detail and an External Lighting Report (Charles D Smith & Associates Ltd Consulting Engineers) have been submitted with the application.
- 1.11 Lighting has been installed on the site and has been in situ for a number of years, albeit this has been unauthorised and previously at a far greater level. The lights have recently been altered and baffles added to some of the lights around the access and along the west boundary.
- 1.12 An external lighting report has been submitted detailing the proposed lighting and showing the resultant illumination levels. The report has been revised to more accurately show the layout of the site and the proposed lighting. The lighting comprises of 88W floodlights, some with baffles, mounted on columns 3m - 6m high.
- 1.13 A Lighting Strategy Plan has also been provided. This indicates that the front car park area is to have lights on until 9pm, the lights to the front display yard area to have motion sensors after 6pm timed to switch off after 2 minutes when triggered and the larger rear display area to have motion sensors after 6pm timed to switch off after 4 minutes when triggered.

2. Reason for reporting to Committee:

- 2.1 Applications (A) and (B) have both been called-in to Committee by Councillor Kemp due to local concern and impact on the Green Belt and neighbours.

3. The Site:

- 3.1 The application site is located on the south side of London Road (A20), about 175m to the east of St Vincents Lane, to the east of the settlement of Wrotham Heath. The site lies between the Old Bakery/Jubilee Bungalow (west) and the residential property Bonheure (east). Bonheure is also under the ownership of the applicant. The site lies adjacent to National Rail land at the rear. The West Malling Golf Course is situated directly to the north on the opposite side of London Road.

and vehicle display areas)

TM/11/00669/FL Approved 14 December 2011

New vehicle preparation bay with associated car parking area and photographic studio (retrospective)

TM/11/02658/AT Approved 14 December 2011

Advertisement for existing business, showing logo, telephone number and award winner statement

TM/13/01901/RD Approved 8 August 2013

Details of materials pursuant to condition 1 of TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

TM/15/03964/RD Application Withdrawn 8 March 2016

Details of external lighting submitted pursuant to condition 7 of planning permission TM/10/00938/FL (Retrospective application for the change of use of the former Venture Cafe building, associated land and residential land for the display and sale of motor vehicles. Demolition of the existing bungalow, garage and office building (formerly Valrosa). Erection of a two storey extension to the former Venture Cafe building for office use in connection with the display and sale of motor vehicles. Provision of car parking and vehicle display areas)

5. Consultees:

(A) TM/16/02318/FL:

5.1 PC: Objection to the application for the following reasons:

- The premises is an over-developed site in a rural metropolitan green belt.
- An extension to operating hours would be harmful to residential amenities and the green belt in terms of noise and light pollution.

5.2 KCC (Highways): No objection.

5.3 Network Rail: No objection.

5.4 Private Reps: 5 + Site Notice/0X/5R/0S. The concerns raised from 5 objectors have been summarised below:

- Additional noise pollution into the evening from cars revving, wheels spinning, headlights, car alarms and shouting.
- The extended hours would be disruptive to neighbouring properties, local wildlife and the rural area.
- The additional evening hours will increase light pollution.
- Activities on the site would extend beyond 9pm.

(B) TM/16/02947/RD:

5.5 PC: Objection to the application. The Parish does not believe that the information given discharges the condition. We remain concerned that the on-site staff car parking area has not been surveyed and included in the proposal. Generally we feel that all the lighting columns could be reduced in height which would reduce the amount of light pollution.

5.6 KCC (Highways): No objection.

5.7 Private Reps: 2/0X/2R/0S. The concerns raised from the 2 objectors have been summarised below:

- The external lighting with the extended hours to 9pm would be intrusive and not suited to the rural area.
- Timers on the lights would disrupt the dark hours for minutes at a time which would be intrusive and result in light pollution.
- The light columns would be higher than adjacent properties, exacerbated by the slope of the land and they would have no cowls, resulting in light pollution.

6. Determining Issues:

6.1 The two applications brought before the Committee consist of an extension of the operating hours for the premises and details of a lighting scheme for the site. These inter-relate and therefore it is prudent that they be assessed and presented together.

6.2 The two planning applications are intended to formalise the unauthorised extended hours for motor vehicle sales and for external lighting which have both been in operation for many years. The Section 73 application concerning the change in hours of operation, if approved, will provide a revision to Condition 6 and additional conditions added relating to the hours of operation of the site that are considered to be required to make the development acceptable. This will provide improved enforceability and will allow for an opportunity to afford a comprehensive level of control over the operation of the site.

- 6.3 The main issues are the effect of the extended hours of the use and associated lighting on the site on neighbouring residential amenity and on the character and visual amenity of the rural area.

Principle of development:

- 6.4 The site lies within the Metropolitan Green Belt. The change in hours of operation involves no operational development or physical change to the site itself and therefore there is no objection to this application on grounds of harm to green belt objectives.

The lighting columns do constitute operational development. However, it should be recognised that the 2010 planning permission accepted the principle of external lighting of some description but sought to control by condition the type, amount and intensity of any such lighting scheme. The scheme as submitted will enable such control to take place in terms of detailed arrangements. It is also prudent to note that the NPPF has been introduced since the 2010 permission was granted but there is no material change to national policy in respect to lighting.

Character and visual amenity:

- 6.5 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance.
- 6.6 The extended hours would result in some additional activities and vehicle movements on the site within the evening period Monday to Friday and in the mornings on all 7 days, and any potential impact of this needs to be considered.
- 6.7 The proposed earlier opening time for the premises of 8am each day, and extended hours to 6pm on Sundays, would reasonably be within normal working hours and would therefore be acceptable.
- 6.8 The more significant change to the hours is the later trading between 6pm and 9.00pm on weekdays. In this respect, the applicant has given a detailed account of how the business operates during this evening period. These are restricted to the viewing of cars in the display area, test driving and office activities. Although the site is within a rural setting, is situated on the A20 which is a busy classified road. The railway line also lies to the rear of the site and a mix of commercial and residential properties are situated to the west. In light of this, I do not consider that the nature and scale of the activities proposed within the extended evening hours would add any significant visual harm to the area.
- 6.9 However, there is a level of impact on the visual amenity of the area from the introduction of new column mounted lights and the operation of the lighting in the proposed evening period. The columns will be visible from the highway and from adjoining properties and there will be some light spill over the side and rear

boundaries of the site and towards the highway, which has been shown on the proposed lighting plan. However, I do not consider the black lighting columns to be visually unsympathetic to the site or street-scene and the level of light spill has not been shown to be substantial. Also, on my recent night-time inspection of the front of the site, the lights were sufficiently contained within the site and any light spill was not intrusive.

- 6.10 The lights for the vehicle display areas have motion sensors which will be triggered when there is movement within these areas after 6pm during the night-time period. Between 6pm and 9pm the lights in these areas would turn on and off as necessary with activity. For the remaining night-time period there is likely to be only infrequent triggering of the lights. Infrared CCTV is installed but the applicant has advised that lighting is still needed to come on for adequate definition for prosecutions. I consider this reasonable for security purposes.
- 6.11 I do not consider that this impact is demonstrably harmful, particularly given the site is situated between the A20, railway line and predominantly commercial development to the west, which comprises the approach to Wrotham Heath. The imposition of additional conditions on any permission granted under the Section 73 application will also provide clear revised restrictions on the operating times of the use which together with the submitted lighting scheme will improve enforceability.

Highways:

- 6.12 The proposals do not change the use of the site or the access or parking arrangements. KCC (H+T) has reviewed the proposals for extended hours of the use and lighting and has no objection on highway grounds. I am therefore satisfied that the development would not result in any significant harm to highway safety and that any residual cumulative impacts on the transport network would not be severe. The proposal therefore accords with Policy SQ8 of the MDE DPD and paragraph 32 of the NPPF.

Neighbouring residential amenity:

- 6.13 There are several residential properties nearby the site. However, Jubilee Bungalow (20m to the west) is separated from the application site by the associated commercial buildings of Adpine Antiques. Leafdale is sited further to the west between Jubilee Bungalow and Endeavour Park (commercial office development). The residential property of Bonheure adjoins the site to the east. The light columns are lower along this boundary and a number of TPO trees are situated between the application site and the dwelling of Bonheure that provide a good level of screening. Also, the main movements during the evening period would be around the office and car park adjacent to Adpine Antiques. Aldon Farm is the closest residential property to the south but the railway line and a thick line of trees intervene. I do not consider that the extended hours of the use would result in an unacceptable level of noise impact given the traffic noise that would be experienced from traffic on the A20 in any event. I am therefore of the view that

the proposed extended hours of use and lighting proposed would not demonstrably harm neighbouring residential amenities, in terms of aural and visual amenity.

Representations:

6.14 I note the concerns raised by the Parish Council and some local residents relating to overdevelopment of the site and the generation of noise and light pollution that would impact on residential amenities. The proposals would not further intensify the existing use but rather extends the hours of the use within its current arrangement. The noise and light impact from the proposals have been discussed in some detail above. The Parish Council also raised the point that the car parking area had not been depicted accurately. A plan (Drawing No.1101/LG/101) has now been submitted that shows the on-site customer car parking layout and the relevant lighting. The position of the lights shown on this plan is consistent with those on the Luminance Levels Plan within the lighting report, but the applicant has advised that the lighting report is being updated to show the correct car parking layout. This will be provided within a supplementary report.

Conclusion

6.15 There would be a change in the effect on the visual amenity of the area as a result of the lighting to support some additional evening trading and some additional activity. However, I do not consider that this would be demonstrably harmful sufficient to refuse the application particularly when considering the emphasis the NPPF places on the planning system supporting economic growth and prosperity. I make these concluding remarks on the basis of the imposition of conditions as outlined below to assist in the ongoing management and more effective enforceability of the site in planning terms.

6.16 In light of the above, I consider that the applications accord with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

7. Recommendation:

(A) TM/16/02318/FL:

7.1 **Grant Planning Permission** in accordance with the following submitted details:

Other AMENDED APPLICATION FORM dated 28.09.2016, Supporting Information dated 28.09.2016 and Location Plan dated 26.08.2016, subject to the following conditions:

Conditions:

- 1 This permission shall be an alternative to the following permission(s) and shall not be exercised in addition thereto, or in combination therewith. (Permissions under references TM/09/02132/FL and TM/09/02384/FL both granted on 26 March 2010.

Reason: In the interests of the amenity of the area

- 2 The scheme of landscaping and boundary treatment shown on the approved plan no. 1101C.04 shall be carried out within the first planting season. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 3 The HGV turning facilities shall be provided as shown on approved Drawing No. 1101C.04 and shall be retained free from obstruction at all times thereafter.

Reason: In order that delivery vehicles may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 4 Surface water drainage within the site shall accord with the scheme approved under planning reference TM/11/00669/FL.

Reason: To minimise the risk of surface water flooding onto the public highway and to prevent pollution of the environment.

- 5 The business shall not be carried on outside the hours of 08.00 to 21:30 Mondays to Fridays and 08:00 to 18.00 on Saturdays, Sundays and Bank and Public Holidays, unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

- 6 The external lighting on the site shall be installed and operated in strict accordance with the details submitted under planning reference TM/16/02947/RD, including the Lighting Strategy (Drawing No. DHA/11758/SK01), unless otherwise approved by the Local Planning Authority.

Reason: To minimise harm to the visual amenity of the locality.

- 7 The vehicle parking space shown on Drawing No. 1101C.04 shall be provided, surfaced and drained and thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending,

revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 8 The premises shall be closed to customers at 19:00 Mondays to Fridays, other than to those customers who are on the premises at that time.

Reason: In the interests of the amenity of the area.

- 9 All areas of the site, other than the main office building and customer car parking area, shall be closed to the public outside the hours of 08:00 to 21:00 Mondays to Fridays and 08:00 to 18:00 on Saturdays, Sundays and Bank and Public Holidays, unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

- 10 There shall be no repairs, valeting or repositioning of motor vehicles for display on the premises, or delivery of motor vehicles to the site, outside the hours of 08:00 to 18:00 any day.

Reason: In the interests of the amenity of the area.

(B) TM/16/02947/RD:

- 7.2 **Approved** in accordance with the following submitted details:

Site Layout 1101/LG/101 Car Park Lighting received 13.02.2017, Details LIGHTING DISTRIBUTION received 29.09.2016, Details LIGHTS received 29.09.2016, Other PICTURE LIGHTING received 29.09.2016, Letter JAC/SG/11758 received 29.09.2016, Drawing DHA/11758/SK01 Lighting Strategy received 29.09.2016, Email received 04.01.2016, Lighting PM1437/15 Report received 04.01.2017.

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