

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	1/2012/0009
FULL APPLICATION DESCRIPTION:	Change of Use of part of existing industrial building to bus vehicle depot (Sui Generis)
NAME OF APPLICANT:	Weardale Motor Services Unit 1 Taylors Buildings Hownsgill Drive
ADDRESS:	Delves Lane Consett County Durham DH8 9HU
ELECTORAL DIVISION:	Delves Lane & Consett South Steve France Senior Planning Officer
CASE OFFICER:	Telephone: 0191 3872263 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is part of a large industrial shed at Taylors Buildings, Hownsgill Drive, Delves Lane, Consett. The building is a profile sheeted structure, 110m x 48m in area with a double apex roof, with double height roller shutter doors at each end. There is a full height open lean-to structure attached to the south-east elevation that allows for covered commercial vehicle storage, cleaning or maintenance. There are two ranges of single storey brick-built office extensions on the south-west elevation, parallel with the access road. The Industrial Estate is built on a hillside, with Taylors Buildings set well above Hownsgill Drive. The hardstanding associated with the facility is 'cut' into the hillside, putting the site lower than the housing areas to the north-east.
2. The applicants occupy the southern end of the building. There is a separate caravan restoration business operating from the northern end of the building. The majority of Parker's Buildings remains vacant.
3. Delves Lane Industrial Estate is 22.5ha of land on the edge of Delves Lane, south-east of Consett. The principal occupant, Elddis Caravans has a main access adjacent the junction of Butsfield Lane, with staff parking accessed from Butsfield Lane, adjacent the small residential settlement at the junction of Hownsgill Drive that accesses the remainder of the estate and Elddis' external storage compounds. The industrial estate has a number of occupants, but includes a number of vacant sites.

Howngill Drive is a cul-de-sac. The industrial estate first appears on the Ordnance Survey Maps between 1970-1979.

4. At the junction of the Industrial Estate, where Howngill Drive meets Butsfield Lane, there is a small residential settlement of around 40 dwellings that has evolved around the site of the old station – that building remaining, with the former railway line now a cycleway/footpath. The dwellings range in age and appearance, including stone-built terracing, between the wars semi- and detached houses and bungalows, modern ‘vernacular’ styled houses, and a cul-de-sac of 1980s appearance. The road junction and settlement are around 580m from the application site.

The Proposal

5. The application relates to a Change of Use of part of Taylor’s Buildings. The development, described above, was formerly occupied by Eddis Caravans, but has of late been vacant. Weardale Motor Services occupy the southern end of Taylors Buildings. Retrospective consent is requested for the use of the building as a bus depot, the applicant seeking consent to operate 8no. buses from the site as follows; 0500hrs – 2 x double deck vehicles, 0715hrs – 1 x double deck vehicle, 0740hrs – 1 x mini bus vehicle and 0805hrs – 2 x double deck vehicles. All vehicles are to return to the depot between 1530hrs / 1745hrs, with the site closed by 1800hrs. The site will also be used for storage of up to 15no. vehicles not in operation, for example under SORN, and for the firm’s preserved vehicles. The applicants note that there may be occasions where coaches operate from the site at different times to the above. It is noted that five out of the six drivers who currently operate the bus contracts live in Consett, this being one of the reasons for the selection of the Howngill Drive site.

PLANNING HISTORY

6. The Council received a query from the applicant as to the need for planning permission in November 2011, the requirement for such being confirmed. At the same time the presence of the caravan restoration business elsewhere in Taylors Buildings was noted (this use does not require an application for Change of Use, being within the same Use Class as the previous operation. In January 2012 a complaint was received from a member of the public that buses were operating from the site. Within 48hrs of this complaint being received Planning Enforcement Officers had visited the site, interviewed the applicant and contacted the complainant to update, their efforts leading to the current application, allowing Officers, local residents, Members and appropriate statutory consultees the opportunity to formally assess the proposals.
7. The planning application was validated on 13th January, letters to local residents were sent on 16th January, and Site Notices were posted on the palisade security fencing surrounding Taylors Buildings at the junction of the two footpaths on the southern tip of the site, and an electricity pole at the corner of Howngill Drive and Butsfield Lane, within the residential settlement.

PLANNING POLICY

NATIONAL POLICY

8. The Government has indicated an intention to consolidate all Planning Policy Statements, circulars and guidance into a single policy statement, and this intention is of material weight when considering a proposal. Termed the draft National Planning Policy Framework (NPPF), the overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. In particular they should approve proposals that accord with statutory plans without delay. The Framework proposes that planning permission should be granted where the plan is “absent, silent, indeterminate, or where relevant policies are out of date”. The draft NPPF states that the primary objective of development management is to “foster the delivery of sustainable development, not to hinder or prevent development”. It requires local planning authorities to approach development management decisions positively, attach significant weight to the benefits of economic and housing growth, influence development proposals to achieve quality outcomes, and enable the delivery of sustainable development proposals. Therefore in this application, both the emerging intent of the NPPF and the existing PPSs and PPGs need to be given appropriate weight.
9. **Planning Policy Statement 1:** ‘Delivering Sustainable Development’ sets out the Governments overachieving planning policies on the delivery of sustainable development through the planning System.
10. **Planning Policy Statement 4:** ‘Planning for Sustainable Economic Growth’ notes economic development includes all B Use Classes, public and community uses and main town centre uses. The policies also apply to uses providing either employment opportunities, general wealth or producing/generating an economic output/product. The overarching objective is sustainable economic growth by - building prosperous communities; - reducing the gap in growth rates between regions, promoting regeneration and tackling deprivation; - delivering more sustainable patterns of development, reducing the need to travel and responding to climate change; - promoting viability of town and other centres as important places for communities; and - raising the qualities of life and the environment in rural areas by promoting thriving, inclusive and locally distinctive communities whilst continuing to protect the countryside for the benefit of all.
11. **Planning Policy Guidance Note 13:** ‘Transport’ seeks to integrate planning and transport at national, regional, strategic and local levels to promote sustainable transport choices for carrying people and freight, promoting accessibility to jobs, shopping and leisure, aiming to reduce the need to travel, especially by car.
12. **Planning Policy Guidance Note 18:** ‘Enforcement’, outlines the general approach to enforcement, including the primary responsibility of LPAs in the matter and the decisive issue of whether a breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.
13. **Planning Policy Guidance Note 24:** ‘Planning and Noise’, guides local authorities in England on their use of planning powers to minimise the adverse impact of noise. It explains the concept of noise exposure categories for residential development and

recommends appropriate levels of exposure to different sources of noise., advising on the use of conditions to minimise the impact of noise.

REGIONAL PLANNING POLICY

14. The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
15. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when Orders have been made under section 109 of the Localism Act 2011, and weight can now be attached to this intention. The following policies are considered those most relevant, noting the scale of the proposals do not have a strategic planning dimension, and are therefore included for completeness, having little material 'weight' in the determination of the application.
16. **Policy 2** - Sustainable Development requires new development proposals to meet the aim of promoting sustainable patterns of development through the delivery of specified environmental, social and economic objectives.
17. **Policy 8** - Protecting and Enhancing the Environment requires new development to maintain quality, diversity and local distinctiveness of the environment through a number of measures, including promoting development that is sympathetic to its surroundings.
18. **Policy 12** – Sustainable Economic Development requires strategies, plans and programmes to focus the majority of new economic development and investment in main settlements, at brownfield mixed-use locations and a Key Employment locations.

LOCAL PLAN POLICY:

19. **Policy GDP1** – General Development Principles – outlines the requirements that new development proposals should meet, listing a number of criteria the Council will expect from new development proposals, including (at point. H) the protection of the amenities of neighbouring occupiers and land users.
20. **Policy IN1** – makes provision for new business / industrial development in specified locations, including Delves Lane Industrial Estate.
21. **Policy IN4** – Notes that within a list of specified industrial estates development will only be approved for business (B1), general industry (B2) and storage and distribution (B8) uses. A list of siting criteria relating to built development and external storage is appended.
22. **Policy IN5** – Development of less attractive or un-neighbourly uses is permitted in a number of listed locations, the application site not being one of them.

23. **Policy TR1** – Transport, Proposed Schemes – identifies land which may be required for road construction schemes including extending Hownsgill Drive north, towards Consett.
24. **Policy TR2** – Development and Highway Safety states that planning permission for development will only be granted where the applicant can satisfy the Council the scheme incorporates adequate provision for service vehicles, for maneuvering, turning and parking space, where satisfactorily accessed by the public transport network, and with proper access onto an adopted road network.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. **County Highways** - In noting Hownsgill Drive is an industrial estate road, County Highways Engineers state it would be difficult to oppose any commercial/industrial development on an industrial estate – the use of a site as a bus/coach depot would not cause any highways issues. The planning application is to allow the use of part of a larger industrial building as a bus depot. According to the application form and additional information, the bus depot will be used to store fifteen buses and will generate six bus movements out on weekday mornings. A similar number of buses will return in the afternoon. No staff numbers have been submitted, it seems that, staffing may be no more than the drivers.
26. As a worst case six cars will arrive between 5:00am and 8:05am and the six buses will depart. Based on these figures, even if all of the traffic arrived and left between 7:15 and 8:05 that is 6 cars in, and 6 buses, out in a 50 minute period. This is little more than one vehicle every 5 minutes. Engineers have commented on the basis that the building has B2 (and possibly B8) use, the existing planning Uses could generate a significant volume of traffic and would not require permission. As the traffic generated by this proposal is minimal, and less than could be generated by the present use, it would be impossible to refuse this application on highway grounds.
27. For the above reasons Engineers raise no objections to this proposal from the highways aspect.
28. With regard to the potential link road through to the north, although the scheme appeared in the Derwentside local plan it was not supported by the County Council within the old Transport Policy Programme nor is it supported in the Local Transport Plan. The scheme is not identified as one of County Highways projects within the revised LTP3 and would have no prospect of funding in the short to medium term. Even were the link-road scheme to be considered in the future it would be considered as a link-road, a road providing an alternative route to Delves Lane. It is the County Engineer's advice that, currently, the project is highly unlikely ever to be considered. The suggestion that, after the link road is built, Hownsgill Drive could be closed just west of Valley View and all industrial traffic routed north is not something which would receive favour. Such a closure would further reduce the likelihood of

any scheme being funded and would route traffic past a much larger residential development

INTERNAL CONSULTEE RESPONSES:

29. **Environmental Health** have indicated that noise emanating from the public highway is outwith their powers of control under the Environmental Protection Act 1990. Whilst they can investigate nuisance from the operational use of the site, the principle objections to the application, in relating to road traffic noise, is outside their control.

PUBLIC RESPONSES:

30. There have been ten individual objections to the application from members of the public, along with an objection received from the local MP, Pat Glass.
31. Objectors concerns are generally consistent, and are summarised below, the full text being available for inspection on the application file. It is noted that a number of correspondents have objected to the retrospective nature of the application, and the Planning Department's handling of the matter, following notification of the initial complaint, considering this a valid refusal reason in it's own right. Both the Case Officer, and Mr S. Timmis, Head of Planning, Regeneration and Economic Development Services, have written to objectors to explain the process, and the specific handling of this case, consistent with the Council's general approach to Planning Enforcement, informed by PPG17 (as above) and case law. The retrospective nature of the proposals is not material in its determination, and likewise does not prejudice either a positive or negative decision made on planning grounds.
32. The main objection of local residents to the use of Taylors Buildings is the noise of double-decker buses braking and accelerating from the junction of the industrial estate uphill towards Delves Lane, in immediate proximity to their homes. Description is given to the effect on the sleep of working residents, children and older residents, and the effect on their amenity. One resident claims the effect is an abuse of Human Rights legislation, akin to torture, with others describing it as noisy and unsociable. There are various descriptions of the impact of an existing 'huge number' of heavy vehicular movements originating from the industrial estate and travelling through the village, both in terms of the existing heavy vehicles operated from within and the times at which they operate, a vehicle transport firm, operating large car transporters, and the operations of Eddis Caravans being mentioned in particular. The access and egress of the employees of the firms on the estate is considered unacceptable. The various vehicles wake residents when operated early in the morning, and shake windows, and produce pollution and fumes. One resident is concerned that as the buses are in operation during the day, they will be maintained and tested through the village at night.
33. Residents are variously concerned for the additional wear and tear the operation will cause to the road service, noting that the area does not benefit from gritting in winter, and stranded buses have the potential to prevent them leaving for work and obstruct access for emergency services.
34. The safety of children playing in the village is of concern, this element considered to have become worse in recent years – one objection describing such having been sent by a young adult who describes their own experience.

35. The proposals are considered to compound existing problems with on-street parking from Eddis transport employees on Butsfield Lane. One writer is concerned that Hownsgill Drive may develop a problem with buses parking on the roadway.
36. The increasing use of the industrial estate is contended to have lead to higher levels of crime through theft and damage, and litter within the village. The drains are not considered likely of a capacity to deal with the additional use applied for.
37. Some correspondents point to an allocation in the Derwentside District Local Plan, at Policy TR1 for a proposed road scheme, suggesting the industrial estate be accessed through the new housing developments at Templetown, and their road be made a cul-de-sac. The extent of occupation and use of the estate has developed far greater than residents expected, and they contend, were led to believe by the Local Authority.
38. One objector contends the proposals are vague and open-ended to allow further and unlimited expansion of the operation in terms of numbers and times, the extent of the existing operation being questioned.
39. Some letters object on the grounds of devaluation of property should the operation be allowed to continue.
40. Pat Glass, MP, registers an objection, concerned at the effect of the use on the quality of life for residents living in the adjacent area, from heavy vehicular noise through the day, along with access to and from the village in winter months if buses become stranded for residents travelling to work.
41. Separate to the application process, local residents have written to the MP asking for a meeting with planners to discuss concerns they have with the appearance of the Eddis site and it's employees access arrangements, an unoccupied building approved at Committee in 2006, and the untidy appearance of that site with a derelict caravan. These issues are not relevant to the current application, and will be addressed separately, as requested.

APPLICANTS STATEMENT (ABRIDGED):

42. *'The application property is known as Taylors Building. It is a large, purpose built commercial warehouse situated in the heart of the Delves Lane Industrial Estate, on the south side of Consett. The warehouse is owned and operated by Eddis Transport. Under the company's ownership it is has functioned for 24 years as an intermediate warehousing facility, with cross docking and order picking carried out as an integral part of the service that Eddis provides to customers of its main transport related business operations. The property's sole means of access is from Hownsgill Drive, which is the main industrial estate road. The road runs through the centre of the employment area, has been built to as good standard, and ends in a cul-de-sac a short distance northwest of the application property. Taylors Building is a 24 hour facility that can be operated throughout the day and night as required to meet customer needs at any given point in time.*
43. *The planning application seeks the Council's approval to change of use of part of the warehouse to a bus depot, a sui generis planning use. The change of use has already taken place, so the application has been made retrospectively to enable the use to continue. The change of use affects about 929sqm (10,000sqft) of the building, together with an associated loading area and small offices. The use has been accommodated readily within the existing building. No external alterations*

have been necessary to facilitate the new use. The bulk of the building is unaffected and will continue in warehousing use as it does now.

44. *The bus depot is operated by Weardale Motor Services, a family business established in 1926 in Frosterley and Stanhope. Weardale operates bus and coach services from its main bases in County Durham at Crook and Stanhope, serving the north east and beyond. The business has grown steadily because of the company's high standards of customer service, combined with a commitment to staff development and training. It is now the largest employer in Stanhope and the Dales. The company recently established a depot in Crook which provides garaging, workshops and offices to complement the head office facilities at Stanhope. The Crook depot has created much new local employment. Taylors Building in Consett has now been added as a third regional base for the business. It is a modest facility, currently the operating base for 6 vehicles serving schools, service and works contracts for Durham County Council and Newcastle City Council. The vehicles leave the site between 5am and 8am each day. Five of the vehicles return by about 9am and then leave again for afternoon journeys around 2pm. All vehicles return to the site by about 6pm. As the business grows it is likely that additional contracts will be serviced from Consett, with an increased fleet creating the need for additional drivers and support staff, replicating the local employment gains that followed the company's investment in the Crook depot and its associated facilities.*
45. *National planning policy for economic growth is set out in PPS4. Policy EC10 is the principal development management policy. It requires local authorities to take a positive and constructive approach towards planning applications for economic development. It says planning applications that secure sustainable economic growth should be treated favourably. Paragraph EC10.2 of PPS4 provides a list of impact considerations, which all planning applications for economic development should be assessed against. The development at Taylors Building will impact positively on the factors set out in EC10.2: A) The proposal makes use of an existing building without the need for alterations so is neutral in its impact on carbon dioxide emissions. The building is not situated in a flood risk area so no climate change vulnerability or resilience issues arise. B) the building is located in an established urban area, close to the population centre of Consett, where accessibility by a choice of means of transport is good. Frequent bus services pass the industrial estate along Delves Lane (15A to Durham, and V1 / V2 Consett to Delves local service). The local topography is favourable for cycling. C) It has no adverse impact on the character of the area or the way in which it functions. It does not alter the existing industrial building or the pattern of traffic attraction to it. D) The use will have a positive impact on economic and physical regeneration. It will ensure the continued beneficial use of an existing employment building. E) The Applicant is investing in business expansion, which has demonstrably created, and will continue to create, additional local employment.*
46. *At a local level, the saved planning policies of the Derwentside District Local Plan support the full range of employment uses on the Estate. Against that background the proposed use of the application property as a bus vehicle depot is entirely appropriate to its industrial estate location. The industrial estate is long established and served by good highways. The Consett depot was identified as a suitable facility because of those characteristics, and because the existing B8 warehouse use is without restriction as to hours of operation or vehicle movements. The building accordingly offers the flexibility that Weardale Motor Services needs in order to maintain its pattern of business and employment growth in the County. TRICS is the national standard system of trip generation and analysis in the UK and Ireland. The organisation's data indicates that a typical 1,000 sqm commercial class warehouse like the application premises will generate around 2 two way trips in the two peak*

hours (8-9am and 5-6pm), and around 25 to 28 two way trips through the day. The bus vehicle depot use generates far less vehicle movements than it would for the approved planning use. There are Currently 12 two way trips each day, substantially less than half of the equivalent movements that could be expected from the existing B8 warehouse use. In simple terms that leaves a great deal of room for Weardale's operations to be expanded without there being any material difference in traffic generation compared with the established use. Ultimately, there is no material difference in the nature of the existing and proposed uses so far as planning policy and impact on the locality is considered. The proposed development does not therefore raise any new or significant material planning issues.

47. *The proposed use of an existing warehouse is economic development that draws clear support from national planning policy in PPS4; the Local Planning Authority's disposition towards the planning application should be positive. The proposal has been appraised against, and found to be fully compliant with the saved policies of the Derwentside District Local Plan so planning policy support also exists at the local level. A bus vehicle depot is a wholly appropriate use that accords squarely with the Development Plan and no other identifiable planning harm is likely to arise. It is a positive and appropriate use for an existing employment building in an accessible location. I would therefore respectfully request that the County Council grants planning permission for the change of use, which will enable the Applicant to continue confidently with the provision of bus and coach services build business levels so that additional local employment can be created.'*

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed by appointment at the Council offices at the Civic Centre, Chester-le-Street, Co. Durham, DH3 9EA.

PLANNING CONSIDERATIONS AND ASSESSMENT

48. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Main Issue

49. The main issue in this application relates not to the principle of the use, but to the effect of the operation of the applicant's business on existing residential dwellings. Unusually these dwellings are not immediately adjacent the Use, but are sited at the entrance junction to the industrial estate within which the use is sited. Whilst there are associated issues of fumes and vibration, the principle objection relates to noise.
50. As detailed above, Planning Policy Guidance (PPG) Note 24, 'Planning and Noise', guides local authorities in England on their use of planning powers to minimise the adverse impact of noise. The stated aim of the guidance is to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business, acknowledging noise can have a significant effect on the environment and the quality of life enjoyed by individuals and communities.
51. The Guidance sets out a system of Noise Exposure Categories (NECs), but makes it clear that these can not be used in 'reverse context' for proposals which would introduce new noise sources into areas of existing residential development, as in general, developers are under no statutory obligation to offer noise protection measures to existing dwellings which will be affected by a proposed new noise

source. In particular it is noted that 'authorities should not use the opportunity presented by an application for minor development to impose conditions on an existing development, which already enjoys planning permission'. This is considered particularly pertinent in the current case where the Council must take into account the potential 'fall-back' position, with the commercial and industrial uses that can occupy the site, and indeed the wider building, without the need for planning permission.

52. Whilst Taylors Buildings appears to have been used as part of Eddis' operations in the past, and their heavy traffic is conditioned directed through their front entrance at the junction of Delves Lane and Butsfield Lane, the building could be argued to benefit from either a B2 Use Class, from Eddis primary function (caravan manufacture), or B8 (Storage and Distribution). Therefore any use within Classes B1 (Business – ie. Research and Development, Laboratories, Light Industry), B2 (General Industry) and B8 (Storage and Distribution) could potentially occupy the building without restriction – as evidenced by the caravan restoration operation that has recently occupied another part of Taylors Buildings, as mentioned above. This 'fall-back' position is of material weight in the consideration of the application.
53. The pertinent Policies in the development plan potentially relating to the noise issue are GDP1 and IN4. The first Policy seeks to protect the amenities of neighbouring occupiers and land users. Only one of the objectors has specified an address from the housing estate adjacent to the site – the majority of the objections emanating from the settlement around the road junction. This one objector worries at the potential for noise from the site, unlike those from Knitsley who complain of actual intrusion. PPS17 suggests that the effects of noise may be mitigated by intervening buildings or structures. It is noted that Taylors Buildings, and its external hardstanding are set significantly below the level of the housing to the north, cut into the slope, with the correspondent's dwelling 200m from the site. Again, referring back to the previous use of the building, its intended use, and the 'fall-back' position, the effect of the operations of the applicant at the levels currently proposed are not considered unreasonable on the objector from Delves Lane, to a level where a refusal could be sustained. It is noted from the specific wording of Policy GDP1 that the majority of objectors do not neighbour the site, the nearest part of the settlement being some 550m from the entrance gates of Taylors Buildings, and over 700m from the road junction.
54. Policy IN4 states that within a specified list of industrial estates, including Delves Lane, development will only be approved for uses within Classes B1, B2 and B8. The text accompanying the Policy notes that many smaller manufacturing and service industries are located within general industrial estates, and as such serve a vital role in assisting the continuing employment regeneration of the (former) District. They are widely different in character, quality and the type of businesses they contain. The applicant's business does not fall within a defined Use Class, being termed 'sui generis'. It is however the type of use consistent with those found on B2 / B8 estates, with similar requirements to those uses - zoned in an area of similar employment generating commercial uses that could be perceived as low level 'bad neighbours', whilst reasonably closely related to a source of workers, ie. residential dwellings. With the specific requirements of the Policy relating to appearance and design, and the general use considered appropriate, the application is considered compliant with Policy IN4.
55. Policy IN1, referred to in the Policy section of this report relates to the location of new industrial development, being a strategic policy overarching Policy IN4, nevertheless directing new business and industrial development to a number of industrial estates including Delves Lane. Policy IN5 relates to development of less attractive or un-

neighbourly uses – exemplified within the supporting text of that Policy by vehicle dismantlers, coal storage, or those which generate large amounts of heavy goods vehicle movements, such as plant hire and lorry parks. Whilst Delves Lane is not one of the industrial estates identified as suitable for such uses, the scale and nature of the operation proposed is such that this Policy is not considered directly applicable.

56. Whilst it appears therefore that the Policy context supports the proposals, the specific concerns of objectors must be considered and given due weight. It is the noise of the two double-decker buses leaving the site, approaching and braking for the junction, and accelerating up the hill towards Delves Lane that causes particular distress. There is suggestion from some correspondents that the vehicle movements may be not be at the times specified. Officers have visited the site during the course of the application at the time specified for the first vehicle movements, which were as stated, with two double-deckers passing through the road junction at 0502hrs. Correspondents complain of workers cars accessing the industrial estate early in the morning. On the day of the site visit there were a small number of cars that accessed the estate after 0430hrs, not all of which related to the applicant's operation. Further to this a large car transporter left the estate at 0507hrs. It is noted that the latter vehicle, emerging from an approved use elsewhere on the estate is unlikely to have been distinguishable from the buses from within the residential properties. The buses were no louder than would be expected, and with minimal traffic on the roads at this time, passed through the junction without stopping, as a pair.
57. There is no argument that the operation causes disturbance to local residents. The planning assessment on this aspect must be whether this disturbance is unreasonable. Local residents can expect from their dwellings a reasonable degree of privacy and amenity. Conversely, the dwellings are sited at the entrance to an industrial estate, which is sited and zoned to allow commercial operations that could be inappropriate in urban centres an appropriate location, reasonably well sited for access by employees. It has been suggested by correspondents that the relationship of the industrial estate to their dwellings is unusual or unique. In fact the majority of identified industrial areas in the County, and certainly in the former Derwentside District area are, and have traditionally been, sited edge of settlement.
58. One resident has developed the amenity argument further, claiming the operation constitutes an abuse of his human rights. There have been various resorts to the European Court of Human Rights by individuals that the planning system is in breach of the Convention. Before the Human Rights Act became law, the then Government assessed the potential implications of it for the planning process, and decided no changes were required to avoid successful challenges under it. The two relevant articles are: Article 1 of Protocol 1 – 'Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest', Article 8 – 'Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others'.
59. The effect of these provisions effectively is to strengthen the influence of proportionality as a factor to be taken into account by the decision-maker, with a fair balance required between landowner's rights and wider public concerns. The European Court of Human Rights has accepted the principle that within that legitimate area of discretion given to the decision maker, who will be called on to strike a balance between landowners rights and wider public concerns, a 'margin of

appreciation' lies with the State's favour. Providing the Council as decision maker can show that the Human Rights Convention, and the potential interference with human rights has been assessed and balanced with the public interest, the decision may be considered sound, as the rights are not absolute, but are subject to limitations – interference with human rights can be outweighed by other interests and considerations. The critical term, 'proportionality', equates to the balancing of material considerations and interests, and in doing so it is suggested that the planning process has given appropriate weight to the objector's human rights.

The Principle of Development

60. The issue of principle has been covered to some extent in the consideration of the effect on amenity, above. In proposing a commercial business use on an industrial estate, the sui generis use is considered compatible with siting on an industrial estate, compliant with Policies IN1 and IN4. It is further material when considering the principle of the use to take into account the wider aims and policies of the County Council. The Council has set out five priority themes including 'Altogether Wealthier' focusing on creating a vibrant economy and putting regeneration and economic development at the heart of all Council plans. Schemes and plans that create or maintain employment and the potential for economic growth are therefore encouraged in principle. Nationally, Policy EC10 of PPS7 includes as relevant; (d) the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives and (e) the impact on local employment, further factors supporting the principle of development. The principle of this development on the industrial estate is acceptable.

Other Transport Issues

61. There are a number of other transport issues raised as part of the application. Some correspondents have referred to a Policy in the Development Plan for an aspiration for a link road to the new housing development to the north. The County Highways Engineer confirms that this road is not likely in the near future, and if it was implemented resident's suggestion of a cul-de-sac at their end of the estate is not an option. Such a road is likely to lead to more traffic through the junction, rather than less. The volume of traffic proposed along the existing roadway has been assessed in detail and is considered acceptable in terms of traffic movements and congestion. Both Hownsgill Drive and Butsfield Lane are adopted public highways, maintained by the County Council, and if damaged will be repaired by such. The volume of traffic proposed approved is unlikely to have significant effect on the road surface, a specified concern of objectors.
62. Both the use and it's location have implications under the advice set out in PPG13. This Guidance Note encourages the use of public transport, and encourages employers to make employment site as accessible as possible for their employees. The applicant's trade is providing public service vehicles - both generally and to specific contracts – the two buses that leave at 0530hrs provide for school transport on Tyneside. On the second point, the applicant has indicated a number of their employees live in the Consett area – this being a determinant in the selection of the site.
63. In terms of the relevant Local Plan Policy, TR2, the proposals incorporate a safe and satisfactory vehicular access/egress, adequate provision is made for on-site turning, there is access for emergency vehicles and a satisfactory access onto the adopted road network. In terms of strategic and detailed highways implications, the proposals

are compliant with both the development plan, and national planning advice. The advice of the County Engineer is considered to fully support this view.

64. Therefore both in strategic terms, in providing through their business, public transport and opportunities for the public to reduce reliance on private cars, and in relating their business close to their employees, on a site with all the technical requirements demanded for operating large vehicles, the Use and the site are in line with national guidance and local planning policy.

Other Concerns

65. Residents have raised some other issues that must also be assessed. Devaluation of residential property as a result of the use is raised as an objection. This issue cannot be dismissed, but is given minimal weight in the planning process. Blocking of the road by stranded buses during winter conditions and difficulty for emergency access is offered against the proposals. Providing the buses use the public highway as intended, they should be no more susceptible to stranding than anywhere else, this is considered more a highways issue than a reasonable and proportionate planning one.
66. One correspondent contends crime through theft and criminal damage will rise with the intensified use of the industrial estate, there already having been problems. There is no direct correlation given to the current application however, and this objection is given minimal weight. One objector raises concerns at the capacity of the drains from the industrial estate affecting the residential properties. The small numbers of staff involved with the use make this unlikely, and again, acknowledgement of the fall-back position is of relevance here. The effect on children's play opportunities and danger from the public highway as a concern is noted. The effect of the Use in physical terms is wholly on the vehicular public highway. Whilst the estate road may be quite in the evening, it is not suitable for play, with the Walkway / Cycleway that runs parallel with Hownsgill Drive to the south-west a safer facility. The majority of the operation takes place when children would not be expected to be playing in the street, the services only operating Monday – Friday.
67. One correspondent finds the terms of application vague and open-ended, fearing the use could grow unchecked once approved. The application has been submitted at a very specific level of operation, with the most contentious elements those operating early in the morning. Both the overall extent of the operation, and the specifics of the early morning operation can be reasonably controlled by condition whereby any planned expansion of the business or alteration of operating hours can be brought within the control of the planning system.
68. Several correspondents offer strong views on the retrospective nature of the proposals and the planning process leading to this application. The complaint on the unauthorised use was dealt with quickly and efficiently as detailed above. Submission of a planning application was secured quickly. The advice given to the applicants in advance of their unauthorised commencement has been misinterpreted by some correspondents. Pre-submission advice is standard practice, encouraged both by the Council and the Government. The advice given is in the public domain and consists of a confirmation of the need for planning permission. Much of the criticism, whilst directed at the Council, actually relates to national planning systems and procedures which have been carried out in compliance with the approach set out in PPG18. The retrospective nature of the application is not a material consideration in its assessment.

CONCLUSION

69. Whilst this report is necessarily detailed the main issue involved is relatively simple. In principle the operation and Use proposed are appropriate on a general industrial estate. The site could be used for both comparable and more intensive poor-neighbour uses without consent. This represents a 'fall-back' position that must be taken into account when coming to a conclusion in assessing the proposals. Nonetheless, there is an affect on the amenity of the residents of settlement of Knitsley, at the junction of the industrial estate, as a result of the vehicle movements of the applicant – in particular those early in the morning.
70. Officers have witnessed the early vehicle movements, and do not consider the effect one which could support a viable refusal, particularly taking into account the similar, unrestricted movements of other occupants of the estate. The effect of workers cars accessing the estate is not considered to unreasonably affect amenity.
71. As a final point Officers are concerned that any refusal could potentially set a precedent that could blight the viability of this industrial estate, and others within the County, given, as noted above, the traditional 'edge of settlement' location of industrial estates, common in this, and all the former Districts.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

1. In accordance with the information supplied supporting this application, buses must not operate from this site on weekends. No buses may leave the site before 0500hrs. Only two buses may leave the site before 0700hrs. There shall be no bus movements to or from the site after 1800hrs. Only 6no. buses may operate from the site.

Reason: To define the extent of the operation, in the interests of residential amenity to comply with Policy GDP1 of the Derwentside District Local Plan, 1997 (saved 2009).

REASONS FOR THE RECOMMENDATION

The proposals have been considered against policies GDP1, EN1, EN4, EN5, TR1 and TR2 of the Council as Local Planning Authority, and are found acceptable in principal, with time limit issues able to be addressed by imposition of an appropriate condition.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the Derwentside District Local Plan 1997 (saved 2006) which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

In particular the development was considered acceptable having regard to consideration of issues of the principal of development, the effect on residential amenity, human rights and highways concerns.

The acknowledged concerns of local residents have been assessed in detail, and balanced against the case of the applicant, but are not considered to be sufficient to sustain a refusal.

BACKGROUND PAPERS

Submitted Application Forms and Plans.

Applicant's Statement

North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

Saved Derwentside Local Plan 1997

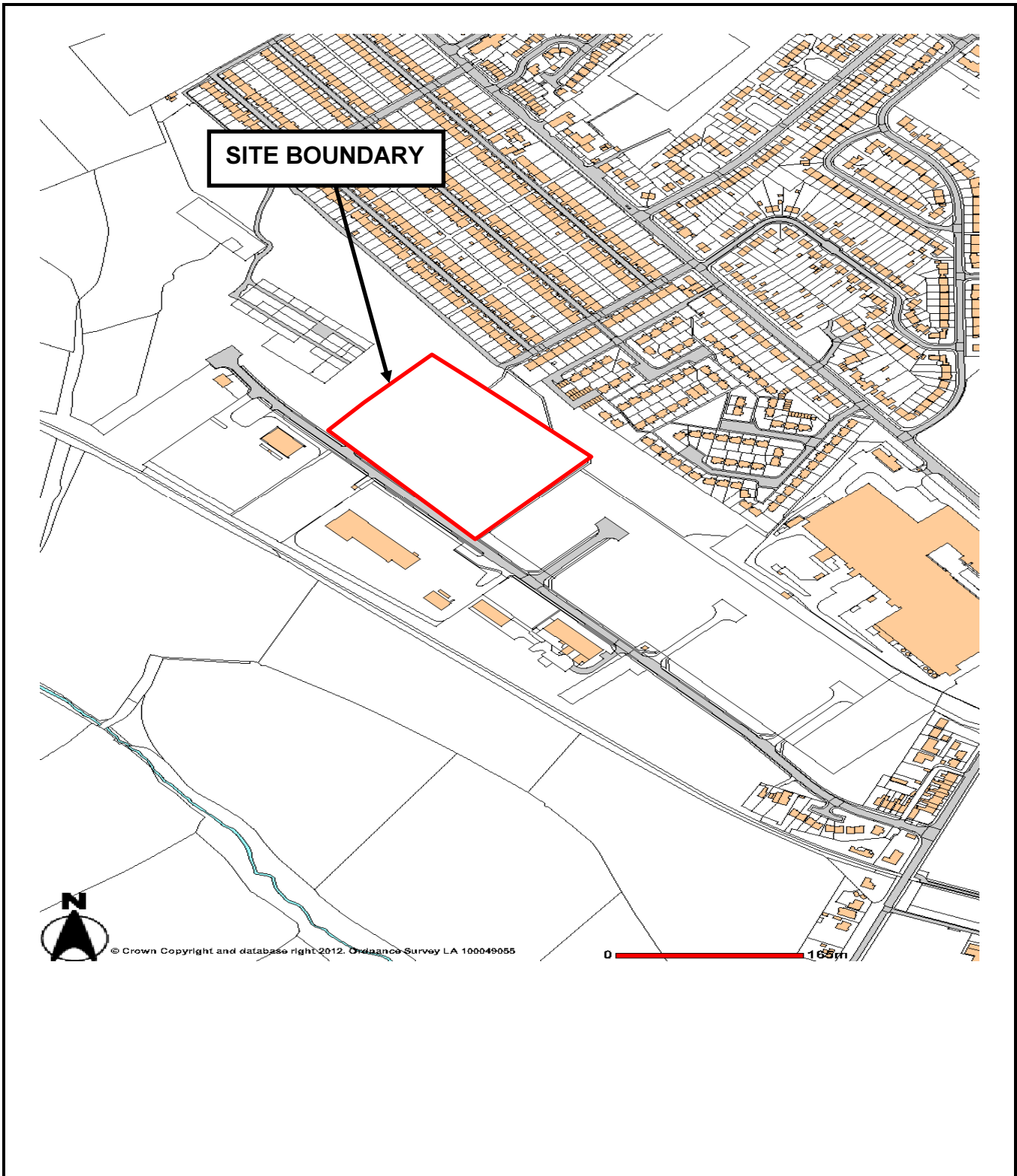
Planning Policy Statements / Guidance, PPS1, PPS4, PPG13, PPG18, PPG24

Responses from County Highways

Public Consultation Responses

Development Control Practice 4.125 (accessed 15.02.2012)

A Practical Approach to Planning Law (11th Ed.) V. Moore, Oxford Press



Planning Services

Change of Use of part of existing industrial building to bus vehicle depot (Sui Generis) Unit 1
 Taylors Buildings, Hownsgill Drive, Delves Lane, Consett
 1/2012/0009

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Comments

Date 13th January 2012

Scale 1:2500