

3/10/0436/FP – Change of use from Business (Class B1) to a car dealership (sui generis) comprising of car showroom, aftersales, offices and minor alterations at Unit 6 Stortford Hall Industrial Park, Dunmow Road, Bishops Stortford CM23 5GZ for Volvo Cars London

Date of Receipt: 08.03.2010

Type: Full – Major

Parish: BISHOPS STORTFORD

Ward: BISHOPS STORTFORD – ALL SAINTS

RECOMMENDATION

That planning permission be **REFUSED** for the following reason:-

1. Insufficient information has been provided to assess whether the proposed workshop element of the proposed development will result in a significant detrimental impact on neighbour amenity in terms of noise and general disturbance. The proposal is therefore contrary to the requirements of saved policies ENV1, ENV24 and ENV25 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract. It consists of a significantly sized modern industrial building with a gross floor area of some 1,635 square metres. To the east of the site is the adjoining Land Rover dealership (representing a sui generis use) and to the northeast into the industrial estate are a variety of units in Class B business use.
- 1.2 The existing building comprises a modern industrial unit with office space to the front and warehouse/workshop areas to the rear. There are two large shutter doors providing rear access to the unit.
- 1.3 The proposed alterations to the building comprise of an internal reorganisation of the unit to provide a new car showroom to the front of the building with associated office space, toilets, etc. To the rear is the proposed workshop, with space for seven vehicles with associated hydraulic lifts shown on the plans. Also proposed to the rear of the building is a trade counter and parts store.

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- 1.4 The external alterations to the building are fairly modest and include minor alterations to the external fabric of the building comprising of the repainting of the external elevations in places and the insertion of a first floor window on the east elevation (that facing the Land Rover Dealership).

2.0 Site History

- 2.1 The following provides an indication of the relevant planning history to this unit:-
- 3/97/0837/FP – Erection of 3 units for B1 (units 5 and 6) and B2/B8 purposes (unit 4) – Approved 13 Aug 1997;
 - 3/97/1664/FO – Alteration to condition 14 of 3/97/0837FP to allow B8 use in addition to B1 use – Refused 17 June 1998 (dismissed at appeal);
 - 3/99/0901/FO – Alteration to condition 14 of 3/97/0837 to allow B8 use in addition to B1 use – Refused 22 September 1999;
 - 3/09/0099/FP – External alterations comprising of new doorways and canopies – Approved with conditions 22 January 2009.
- 2.2 The most relevant history for Members to note in respect of the unit is that planning permission was originally granted for the use of this building for B1 purposes in 1997 (ref. 3/97/0837/FP). That permission, although restricting the use to Class B1 only (condition 14), did not limit the hours of operation. Two later applications (3/97/1664/FP and 3/99/0901/FP) to vary that condition to allow B8 use in addition to the B1 use were refused by the Council. LPA reference 3/97/1664/FP was dismissed by the Planning Inspectorate – the details of which are discussed below in more detail.
- 2.3 It is also important for Members to note that, within LPA reference 3/09/0099/FP, the grant of permission for external alterations, a directive was attached to the permission which stated that:-
- “The extent of the floor area of the building to be used as a trade counter/showroom as shown on drawing number 4244-01 Rev E is considered to be ancillary to the lawful B1 use of the building. The extent of the floor area to be used as a trade counter/showroom shall not exceed 40% of the floor area of the building, unless planning permission is granted for such purposes.”

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2.4 That condition means that, within any B1 use of the premises, approximately 40% of the floor area could be devoted as an ancillary trade/showroom. The applicant refers to this directive within their justification for the application, which is discussed later in this report.

3.0 Consultation Responses

3.1 Environmental Health comment that they do not wish to restrict the grant of permission.

3.2 Hertfordshire County Highways comment that they do not wish to restrict the grant of permission. The Highways Officer comments that the Highways Authority have undertaken their own assessment of the likely traffic generation compared against the level of traffic generated by the existing B1 use and confirm the conclusion reached in the applicants own Transport Statement; that the highway impact of the proposed development will not be significant. The Highways Officers comments that whilst the figures included in the applicants transport statement are not wholly accurate, the differences are not significant and are expected given the variables that a computer program such as TRICS allows. The Highways Officer suggests that there is likely to be an overall increase in traffic generation – an increase of just 9 trips, but that would be spread out throughout the working day with traffic movements actually reducing in both the morning and afternoon peak hours.

Access into the site is off the roundabout junction with Dunmow Road into a private road which is of adequate design and width to serve the proposal. Additionally, the development makes provision for staff and customer parking and there is an area for vehicle loading and unloading.

4.0 Town Council Representations

4.1 Bishop's Stortford Town Council do not object to the application but ask that conditions are included restricting the time of the day during which vehicle transporters may visit the site.

5.0 Other Representations

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

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5.2 4 letters of representation have been received which can be summarised as follows:-

- Impact on neighbour amenity: noise, general disturbance, external lighting;
- Impact on highway safety;
- Insufficient parking.

5.3 A petition has also been received, signed by 8 local residents which raises concerns with the impact on neighbour amenity in terms of noise and the impact on highway safety and questions the proposed 'aftersales' element of the proposed development.

6.0 Policy

6.1 The relevant saved Local Plan policies in this application include the following:-

SD2	Settlement Hierarchy
EDE1	Employment Areas
BIS9	Employment Areas
ENV1	Design and Environmental Quality
ENV24	Noise Generating Development

7.0 Considerations

7.1 Officers consider that the main planning issues in this case relate to the following:-

- The principle of development;
- Parking provision and Highway safety;
- Neighbour amenity issues;
- Impact on character and appearance of the building.

Principle of development

7.2 The site is located within the built up area of Bishops Stortford where, in principle, there is no objection to the proposed development. However the site is classified as an employment area wherein policy EDE1 and BIS9 of the Local Plan states that designated areas should be reserved for employment uses (such as B1, B2 and B8 use). The proposed development involving a change of use to a sui generis use would therefore represent a departure from the requirements of the Local Plan.

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- 7.3 Before considering the planning merits of such a change of use, it is pertinent to consider the published East Herts Employment Land and Policy Review, which was undertaken with the primary objective of assessing the supply and demand for employment land and premises in East Herts over the period to 2021. This study will form part of the evidence base for the Council's emerging Local Development Framework (LDF) and will inform the Council's preferred options for its Core Strategy, to assist in the formulation of policies for new employment land development in the emerging LDF and provide background information to assist the determination of planning applications for such developments in the future.
- 7.4 The Review assessed the existing supply of employment land (in the first half of 2008), and in terms of future land requirements, examined a range of potential employment growth scenarios. The Review concluded that the overall additional need for employment land between 2008 and 2021 is projected to be between 2 and 5 hectares, although this could rise to 7-10 hectares if existing employment sites are lost. In particular the Study identified that within Bishop's Stortford, due to strong demand and low vacancy rates, in combination with the scarcity of supply, mean that existing employment sites in the town need to be safeguarded.
- 7.5 The Review classifies Stortford Hall Industrial Estate as 'Green', which is classified as 'a priority for retention as a high quality employment site'. The review comments that this particular cluster of employment uses is well established and dominated by smaller industrial/warehouse units. It benefits from its location in Bishop's Stortford and relative proximity to the M11 and high occupancy rates indicate strong demand.
- 7.6 The employment study would tend to indicate that the retention of unit 6 for employment uses should be safeguarded in the interests of ensuring that sufficient employment uses within the Town and District are maintained.
- 7.7 However, what must be considered by Members is whether there are any material considerations which might outweigh the departure from policy and the employment study, as outlined above.
- 7.8 The applicant has essentially outlined two material considerations, in this respect, namely:-
- Evidence of a continued marketing exercise; and
 - The nature of the particular use proposed and associated employment generation.

Marketing

- 7.9 The applicant provides evidence that since June/July 2008, the premises have been marketed as a B1 user by Lambert Smith Hampton property from offices in Chelmsford and Cambridge. The following techniques have been adopted including, marketing boards, extensive 'mail shots', online marketing, distribution of particulars to over 3,000 companies, via email and mail. Additionally, since the grant of permission in March 2008 to which a directive was attached indicating that a trade counter is considered to be ancillary to the B1 use, the site has been advertised as a B1 use and a B1 use with a trade counter.
- 7.10 The applicant outlines that the marketing exercise has resulted in extremely limited interest. The applicant outlines that the interest to date is limited because of the very limited nature of the extant B1 permission. Even with the provision of a trade counter, the applicant states that there has been limited interest with the majority of major trade occupiers throughout the UK putting any expansion plans on hold; concentrating on existing locations. The applicant outlines that the marketing shows that the existing use has been unsuccessful in attracting a viable user for the existing unit in its current use and comments that this demonstrates that there is a justification for a change of use to a car dealership.
- 7.11 Whilst Officers are mindful of the evidence submitted in respect of marketing, in itself this it is not considered to be sufficient to outweigh the departure from policy outlined above. However, the applicant also relies on evidence relating to the nature of the business to support their position further:

Nature of the use

- 7.12 The applicant comments that the previous permission within LPA reference 3/09/0099/FP grants planning permission for alterations and includes a directive which sets out that a 40% space allocated as a trade counter / show room would represent an ancillary use to the primary B1 use of the premises.
- 7.13 The applicant comments that the proposed use will include approximately 60% towards what the applicant considers to be a dedicated B1 use (vehicular repairs, parts and office space) and the remaining 40% towards a show room.
- 7.14 The applicant considers that the proposal will therefore maintain a significant proportion (60%) of employment use within the 'B' classification with a lesser (ancillary) proportion of the use towards vehicle sales. The

applicant considers the nature of the use to be in line with the Councils previous decision and directive attached to LPA reference 3/09/0099/FP, and the general thrust of policy requirements to ensure that the use remains principally as an employment generator.

- 7.15 Setting aside considerations of whether the workshop and vehicle repairs represents a B1 use or whether it is more akin to a B2 use, in considering these issues it is primarily important to focus on the proposed employment generating use of the unit, which is, after all the purpose of employment area policies EDE1 and BIS9. In Officers opinion, it is a material consideration of some weight that a significant proportion of the unit (60% in floor area terms) would be designated to what Officers consider to be an employment use of the building - that being the vehicle repairs, office space and parts centre. However, any floor area calculations must be considered against the nature of the use. In Officers opinion, the perception of the use will primarily be as a car dealership, rather than as an employment use. It is considered that the use of this unit as a Volvo dealership should be considered as any other car dealership, such as the adjoining Land Rover dealership or any other vehicle manufactures. Whilst Officers therefore recognise and appreciate the proportion of the use dedicated as an employment generator, these considerations do not in themselves fully justify the proposed development. In Officers opinion, the planning considerations of this application require a more subtle critique of the employment generation of the site.
- 7.16 In this respect the applicant assesses job generation at the site and outlines that the proposed use will create in the region of 25 jobs (10 sales/office staff and 15 staff in the proposed workshop/parts department). This, in the applicants view, is significantly greater than the existing use of the premises which is more likely to be between 2 – 3 members of staff. Whilst Officers would not wish to question the seemingly low figures suggested by the applicant, the provision of 25 jobs at this site is significant and is considered to be in line with the overarching requirements of employment area policies EDE1 and BIS9 to ensure the retention and provision for employment generating uses.
- 7.17 Whilst Officers therefore recognise that the proposed use does not strictly fall within the 'B' classification uses that are required in policies EDE1 and BIS9, the proposed sui generis use does allow Members to carefully consider the merits of this individual user. In Officers view, having regard to the above considerations, the proposed use of the unit as a car dealership will allow an existing underutilised building to be used to provide a significant level of employment for the town. In this respect the proposal will not result in a significant loss of an employment use and the overarching

requirements of Local Plan Policies EDE1 and BIS9 to encourage and retain employment uses within the District, would be met.

Highway safety

- 7.18 The comments from the Highways Officer are noted. Those comments outline that an assessment of the proposed development by County Highways reveals that whilst there are disparities between the figures suggested by the applicant in their transport statement, these are not significant. The proposal would result in an increase in traffic when compared to the existing use; however this will be limited to approximately 9 additional traffic movements in a day. The Highways Officer comments that those 9 additional traffic movements will not be during the 'peak' times of the day and will not result in significant harm in terms of highway safety. Having regard to those comments, Officers are of the opinion that the proposed development would not result in a significantly detrimental impact on highway safety.
- 7.19 With regards to parking provision, the Highways Officer notes that sufficient parking provision is proposed. The application form indicates that the existing 36 spaces will be reduced to 24 – presumably in order to provide forecourt space for vehicles as part of the proposed use of the site. Appendix II of the Local Plan outlines the maximum standards for the level of parking provision for such a use. For the number of cars proposed to be displayed (16) and the level of employment proposed (25), there is a requirement for 21 parking spaces. The provision of 24 spaces is in accordance with the requirements of the Local Plan and Officers thus raise no objection in this regard.

Neighbour amenity

- 7.20 Members may have noted the references made above with regards to whether the proposed workshop element represents a B1 use or a B2 use. The current premises are restricted to a B1 user, which was a condition attached to the original permission granted in 1997. A B1 user is a use which, in principle can operate within a residential area without significant harm, in planning terms, to the amenity of neighbouring properties. Such a condition was attached to this unit, owing to the relationship of the unit with the neighbouring properties along Stortford Hall Park.
- 7.21 An appeal has been dismissed with regards to a variation of the condition relating to the change of the use of the premises from B1 purposes to a B8 use also (LPA reference 3/97/1664/FP). In that application the Inspector considered that the associated use of 'large vehicles' and the times that they may visit the premises (normally in the early morning an hour before a

B1 use) as part of a B8 use would cause serious disturbance to neighbouring properties and that conditions relating to disablement of reverse alarms, restrictions on overnight parking, the provision of specialist loading bays and use of electric powered fork lift trucks would not overcome the impact on neighbour amenity.

7.22 Clearly, the considerations of that Inspector are somewhat different to the proposals now before the Council. Large vehicles are not the primary vehicle usually expected in association with a car dealership and workshop, except for the normal deliveries as part of the parts workshop and deliveries of vehicles, etc. Furthermore, the comments from the Highways Officer outline that any increase of vehicle movements as a result of the proposed development will not be significant, when compared to the existing use – an increase of just 6 vehicles spread throughout the day. In this respect Officers do not consider that the slight increase in vehicle movements as a result of the proposed development would be to such an extent as to result in a significant detrimental impact on neighbour amenity to warrant the refusal of the application. The main planning consideration in respect of considering neighbour amenity is to assess the nature of the specific use, and the activities that would take place within the unit. Having regard to the proposed layout of the building and relationship with the neighbouring properties, it appears that the main consideration relates to the workshop element, and the activities that take place therein.

7.23 The applicant has provided information regarding this issue and considers that the specific nature of the Volvo workshop element of the proposed development must be considered. The nature of the development proposed is that the workshop will be used for routine maintenance of vehicles. The information from Volvo indicates that a review of their current stock management programme shows that the most commonly used parts in a 12 month period consist of washer fluid, various filters, brake pads and brake disks. Additionally, the applicant outlines that the majority of repairs in the workshop is investigatory work into system failure or warning light messages displayed to the driver. Such work undertaken involves the use of diagnostic computers. The applicant also advises that Volvo no longer undertake any major repairs to engines or transmission units, these are now supplied as exchange units directly from the manufacturer as part of an exchange programme. The applicant essentially seeks to argue that the noise associated with the proposed workshop will be limited to those activities and will not include works such as body repairs, tyres and MOTs which will be contracted to existing local establishments.

7.24 Officers have also, however, considered the letters of representation received which raise specific concerns regarding the degree of impact on the amenity of neighbouring properties as a result of the proposed

development. Additionally, the comments from the previous Inspector in respect of a proposed B8 use must also be taken into account. Members should balance those issues into their considerations together with the information provided by the applicant relating to the specific activities of the proposed workshop.

- 7.25 Policy ENV1 of the Local Plan requires that all development proposals respect the amenity of neighbouring buildings in terms of noise and disturbance. Additionally, policy ENV25 requires that noise sensitive development including homes, should not be exposed to noise nuisance; have regard to PPG24; the proximity of the development with the residential properties and the degree of protection afforded by the layout.
- 7.26 In Officers opinion it seems that the proposed workshop element will involve activities limited to car maintenance and diagnostic testing. However, the relationship of the development site with the neighbouring properties is such that the rear garden space of the neighbours properties back onto the rear of the workshop element with limited protection afforded by the existing landscape buffer strip. Additionally, Officers would comment that there is very limited information relating to what specific activities take place and the noise and general disturbance associated with them. For example, the applicant advises that diagnostic work is undertaken with the technician essentially assessing / updating the software on the car. However, what noise is associated with such an activity? The proposed plans indicate that there is provision for 7 cars within the workshop and if all seven cars have their engines running at the same time what are the likely noise levels and how will this impact on neighbour amenity? There is no detailed information from which to make an objective assessment with regards to the specific activities that take place and to what degree those activities will impact on neighbours amenity.
- 7.27 Officers have considered whether planning conditions could be imposed on any grant of permission to overcome or address any such concerns, such as requiring that doors remain shut at all times, limiting the hours of operation of the workshop, etc. However, Officers do not consider that sufficient evidence or information has been put forward at this stage in order to make an informed judgement as to whether any such conditions would reduce the degree of impact of noise and whether they are necessary and reasonable. From the information submitted, it would seem that there is an indication that the activities undertaken in the proposed workshop element of the proposal may not result in a significant impact on neighbour amenity. However, given the concerns of neighbouring properties and the Inspectors decision in relation to this issue and having regard to the requirement of policies ENV1, ENV24 and ENV25, Officers are of the opinion that insufficient information has been provided to properly assess the degree of

impact on neighbour amenity. Planning conditions cannot address or overcome this issue in the absence of more detailed information and Officers therefore recommend that permission is refused on these grounds.

Impact on character and appearance of the building

- 7.28 The proposed external alterations to the building are limited and relate mainly to altering the cosmetic appearance of the building with alterations to the glazing including a sun screen on the front elevation. The alterations proposed are considered to be minimal and will not impact significantly on the character or appearance of the building, in accordance with saved policy ENV1 of the Local Plan.

8.0 Conclusion

- 8.1 The proposed development represents a departure from Employment Area policies set out in the Local Plan. However, the applicant has provided justification relating to a marketing exercise and the nature of the employment generating use proposed on the site which is considered to be in accordance with the general thrust of policy requirements to ensure the provision and retention of employment uses within the District. Additionally, the proposed development is considered to be acceptable in terms of highway safety, parking provision and in terms of the degree of impact on the character and appearance of the building. However, there is insufficient evidence in relation to the impact on the amenity of neighbouring properties, in terms of the activities associated with the workshop element of the proposed development in terms of noise and general disturbance. It is with regard to that consideration that Officers therefore recommend that the application be refused.