

**Planning Committee 30th July 2024
Report of the Head of Planning**

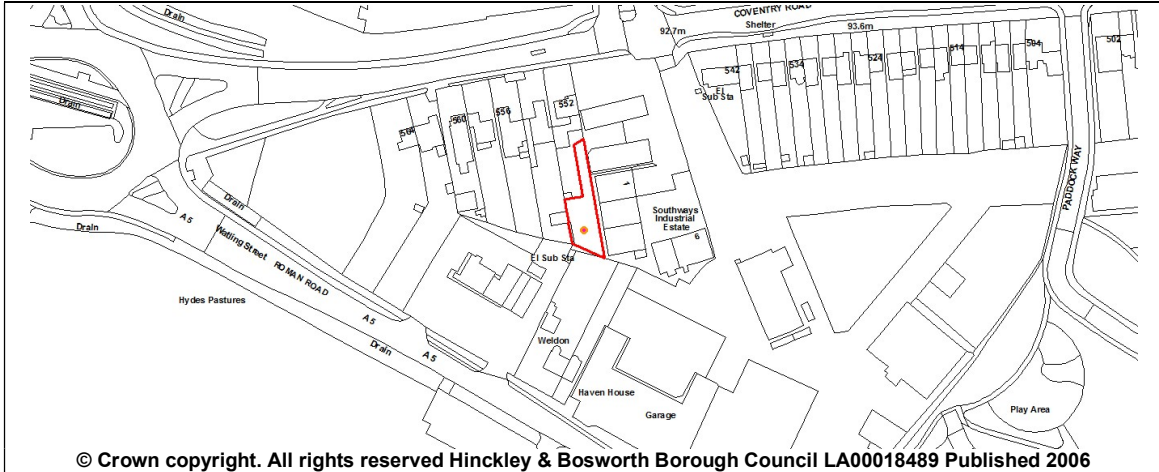
**Planning Ref: 24/00428/FUL
Applicant: Mr John Williams
Ward: Hinckley Clarendon**



**Hinckley & Bosworth
Borough Council**

Site: 552 Coventry Road Hinckley Leicestershire LE10 0NJ

Change of use of part of the garden (Use Class C3) to accommodate storage of skips (Use Class B8).



1. Recommendations

1.1. Refuse planning permission for the reasons set out below

2. Planning application description

- 2.1. The application seeks a retrospective full planning permission for a change of use of garden land (C3) to accommodate storage of skips (B8). The site currently is being used to store skips for Leicestershire Skips Hire which has the same ownership as TF Car Sales which has operated from industrial premises adjacent to 552 Coventry Road for some time. The site is demarcated by fencing and a wall from the dwellings at 552 and 554 Coventry Road. The change of use does not involve any construction work or physical change to the site.
- 2.2. Historic aerial imagery shows that in December 1999 the site was part of the garden of 552 Coventry Road but that by July 2006 it had been fenced off from the remainder of the garden with access being taken into the site from the adjacent small industrial estate and was being used for the parking or storage of vehicles. This use appears to have continued until recently when the site began to be used for the storage of skips.
- 2.3. The business operator has stated that the use of the site does not and will not include the storage overnight of waste material unless the skip is to be taken away the next day. The operator states that the skip lorry only reverses into the site once a day on returning to the site and therefore there is minimal noise generated and the land is strictly skip storage use only. The business operator has also stated that the skips stored on the site are for emergency use only and that the business use involves the collection of skips from across the local area, emptying them and then

dropping them off at new addressed. The operator has also agreed that the larger vehicles currently also stored on the site can be removed if necessary.

3. Description of the site and surrounding area

- 3.1. The application site covers a 365 square metre plot size to the rear (south) of 552 Coventry Road, which is approximately 70% of the total garden size. The plot in question measures 43 metres at its longest (east of the site) and 21 metres on the other side (west) bordering residential properties. The land originally formed part of the garden of 552 Coventry Road and a garden of at least 20m in depth and 7m in width is retained for that dwelling. The land has clearly been used in connection with the adjacent industrial premises though for many years. The site is located within the urban settlement boundary of Hinckley and in a mixed residential area (to the west of the site), with some industrial and employment uses(Harrowbrook Tyres/Southway Industrial Estate) to the north, south and east of the site. Access to the site is through Harrowbrook MOT Centre which borders the site to the east.
- 3.2. During the officer site visit, it was identified that that vehicles are also stored on the site.

4. Relevant planning history

89/00441/4

- Change of use from dwelling to residential home for 19 elderly persons
- Refused
- 23.05.1989

There has been no planning application submitted for the change of use of the site from garden to the storage of vehicles. An enforcement complaint was received in 2011 regarding excessive use of the site for the storage of vehicles and the owner (who remains the owner of the land now and who owns 552 Coventry Road) was advised to significantly reduce the number of vehicles stored on the site to personal vehicles only and to cease use of the site by the adjacent industrial premises. That occurred and no further enforcement complaints were made until the site started to be used for the storage of skips. It is clear from the enforcement file that the site remained in use in connection with the dwelling at 552 Coventry Road and not in connection with the industrial premises despite the changed access arrangements.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Six comments objecting to the application have been received as a result of the public consultation. Issues raised include:
 - Noise from lorries
 - Storage of rubbish, attracting vermin and smell
 - Skips are higher than surrounding fence
 - Impact to gardens and privacy of neighbours
 - Inappropriate use of residential garden land
 - De-valuing surrounding properties (*Officer Comment – this is not a material planning consideration*)
 - Not safe for people and dogs
- 5.3. The number of objections received requires that the application be determined at Committee. The application has also been called in to Committee decision by ward

member Councillor Pendlebury on the basis that the proposal will impact negatively on residents.

6. Consultation

- 6.1. HBBC Environmental Services – Pollution - has no objection to the application.
- 6.2. HBBC Waste Streetscene Services - has no objection to the application.
- 6.3. LCC Highways - have no objection to the application as they are unable to demonstrate that the proposal will result in any severe impact upon the highway network.

7. Policy

- 7.1. Core Strategy (2009)
 - No relevant policies
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM20: Provision of Employment Sites
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF Dec 2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Highway Authority Design Guide

8. Appraisal

- 8.1. The application site is within an urban area with a mix of neighbouring uses (residential and industrial/employment). The key issues in respect of this application are therefore:
 - Principle of development
 - Design and impact upon the character of the area.
 - Impact upon neighbouring residential amenity
 - Impact upon parking and highway safety

Principle of development

- 8.2. The application site is formed from part of the garden of 552 Coventry Road, however it is being used for the storage of skips. The proposal is therefore a change in the use of the site from C3 (dwellinghouse) to B8 (storage and distribution). The surrounding area has a mix of uses but originally the garden of 552 Coventry Road would have been adjacent to the rear of an industrial unit of approximately 32m in length meaning that commercial/industrial activity had less of

an impact on the adjacent residential property as it was either enclosed within the building or screened by the building if it was taking place outside. To the west of the site are domestic dwellings which have a clear view of the site from their gardens.

- 8.3 Paragraph 11 of the NPPF and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise.
- 8.4 Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 Paragraph 85 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity.
- 8.6 Policy DM20 of the SADMP supports development of new sites for B1, B2 and B8 uses outside of allocated employment areas. It states that development will be supported where it stands within settlement boundaries or on previously developed land. Gardens in built-up areas are not considered to be previously developed land.
- 8.7 The proposal is within the settlement boundaries of Hinckley and adjacent to an employment area. The scheme results in the incorporation of storage and distribution use in a sustainable industrial/employment area and within the settlement boundary. Policy DM20 offers support for the development in principle but there are considered to be some concerns regarding the principle of the open storage and distribution use given its open siting directly adjacent to residential property.
- 8.8 As set out in the NPPF there are three strands to sustainability and these are economic, social and environmental. While the proposal clearly satisfies the economic objective of sustainable development it is doubted whether there is in principle support for the application from a social or environmental objective.
- 8.9 There is no information on how many skips will be on the site at any particular time, and photographs have been supplied with show them being stored to a height significantly higher than the existing boundary treatment. The height of the storage could be controlled though via condition.

Design and impact upon the character of the area

- 8.10 Policy DM10 of the adopted SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features and for building material to respect existing/neighbouring buildings and the local area generally.
- 8.11 The proposed scheme is to change the use of the site from a residential to storage and distribution of skips. There is no other change or amendment to the site. The existing wall and trees border the residential dwelling to the west and employment site to the south respectively. The fence separates the garden of 552 and 554 Coventry Road and the industrial site to the east of the site (Harrowbrook Tyres/Southway Industrial Estate).
- 8.12 Although no building works are involved the use of a former garden (even though the site has been used for the storage of the applicants vehicles for some time) for the storage of skips clearly has a detrimental impact on the character of the site and

by extending an open storage use onto the site adjacent to residential properties clearly has a detrimental impact on the character of the surrounding area, particularly that part of the wider area that comprises residential properties. The proposal fails to complement or enhance the character of the surrounding area as required by Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.13 Paragraph 130(f) the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible and which promotes health and well-being, with a high standard of amenity for existing and future users. Policy DM10 of the adopted SADMP and the adopted Good Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion. Policy DM7 requires development to not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity.
- 8.14 Several comments were received from neighbours highlighting the detrimental impacts of the change of use of the site that has already taken place. These include noise from lorries, storage of rubbish, attracting vermin and odour, unsightly skips stored higher than surrounding fencing, impact to gardens and privacy of neighbours, and inappropriate use of residential garden land.
- 8.15 The site shares borders with 552 and 554 Coventry Road and with the other employment premises on the wider industrial site. It is considered a key consideration that whereas previously the industrial/commercial uses shared an acceptable boundary with the closest residential property as described above due to the rear of the industrial unit backing on to the long residential garden there is now an open active storage/distribution use that shares the boundary. The impact of this change in the relationship between the two differing uses is considered to be significant and to be detrimental. This does not result in a high standard of amenity being provided for existing and future users of the adjacent and neighbouring residential properties.
- 8.16 The Council's Environmental Services Officer has no objection to the application. Nevertheless, given the consideration of the impacts in terms of noise, general disturbance and the unsightly nature of the skip storage generated from the proposal, it considered that the use of the site for the storage of skips has had significant adverse impacts on the amenity of neighbouring residents.
- 8.17 While these impacts could be reduced by the application of conditions restricting the height of the stored skips and their proximity to the common boundary or by an increase in height of the boundary treatment and improved landscaping it is not considered that these would adequately mitigate the significant detrimental effects inherent with the proposals. By virtue of the above, the proposal is not in accordance with Policies DM10 and DM7 of the adopted SADMP and the adopted Good Design Guide.

Impact upon parking and highway safety

- 8.18 Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design. Policy DM17 of the adopted support development that would not have any significant impact on highway safety. Paragraph 115 of the NPPF states that development should only be prevented or

refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.

- 8.19 The proposal indicates that the limited parking that is required for the business is available on the wider commercial site close the site.
- 8.20 The application site is accessed by Coventry Road (B Classified Road-B4666) subject to a 30mph speed limit. The site is not used for parking and therefore does not propose any parking on site. Given the use of the site and nature of the current proposal, additional parking is not required.
- 8.21 Based on available record for LHA, there have been three personal injury collisions recorded along Coventry Road within 500m of the site access. Two PICs (Personal Injury Collisions) were recorded as slight, and one was recorded as serious in severity. The LHA has given consideration to the circumstances of the PIC's and does not consider the development proposal to exacerbate the likelihood of further such incidents occurring.
- 8.22 The LHA is unable to demonstrate that the development proposal if permitted will result in a severe impact upon the highway network and would not seek to object on this basis.
- 8.23 The site is in a highly sustainable urban setting with easy access to a full range of services and facilities by alternative and more sustainable transport means. The proposal is therefore in accordance with Policy DM18 of the adopted SADMP and local highway authority design guidance.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. By virtue of the current use of the site and its proximity to the rear gardens of 552 and 554 Coventry Road, it is considered that the proposed change of use

significantly impacts on private amenity of residential properties as a result of the general activities within the site. This does not result in a high standard of amenity for neighbouring residents. The benefits of the scheme in terms of supporting a local business are considered to be significantly and demonstrably outweighed by the harm caused to the amenity of neighbours. The proposal is therefore not in accordance with Policies DM7 and DM10 of the SADMP and it is recommended that permission is refused.

11. Recommendation

Refuse planning permission

Reasons

1. The proposed change of use significantly impacts on the private amenity of neighbouring residential properties as a result of the noise and general activities within the site and therefore is not in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document or in accordance with the Council's Good Design Guide.