

Allerdale Borough Council

**Planning Application
Development Panel Report**

Reference Number: FUL/2023/0006

Valid Date: 13/01/2023

Location: 322 Moss Bay Road, Workington

Applicant: W Greggain

Proposal: Resubmission of application FUL/2022/0115 for the change of use of car showroom to workshop facility

RECOMMENDATION

GRANT planning permission subject to planning conditions

1. Summary

<u>Issue</u>	<u>Conclusion</u>
Principle	The proposal is located within the defined settlement of Workington, in an area of mixed commercial and residential uses. The principle of commercial development is therefore acceptable within this location, subject to compliance with other relevant Local Plan policies.
Residential Amenity	Given the existing commercial activity taking place in the building, it is considered that the proposed change of use of the upper floor from showroom to workshop facility would not have any significant adverse impact upon adjacent residential amenity. Conditions are suggested to safeguard existing amenity standards.

Highways	Given the existing use of the premises, it is considered that the proposal would not lead to a significant increase in vehicular traffic to and from the site. The Highways Authority raise no objections to the proposal.
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2. Introduction

2.1 The application is a resubmission to FUL/2022/0115 which was determined at a meeting of the development panel on 20th December 2022. Members refused the application for the following reason:

'The Local Planning Authority consider the proposed development, by virtue of its operational workshop use in proximity to the nearby residential properties on Mossbay Road, would result in adverse noise disturbance to the detriment of the residential amenity of the occupiers of the dwellinghouses contrary to Policy S32 of the Allerdale Local Plan (Part 1)'.

2.2 The current application is brought to the panel with the addition of a Planning Statement which includes a Breakdown of the Process as outlined below:

'A) A client books their vehicle in for work to be undertaken of the refurbishment of the alloy wheels.

B) On arrival they take the car to the lower car park area and report to reception.

C) The car is then taken up to the first floor area, the workshop doors are opened and the car is driven in, the doors closed and the process of removing the wheels is undertaken.

D) The car is then left in the area as previously approved as part of the car showroom as a holding area and the customer returns and drives away with their vehicle'.

The Planning Statement also includes Points of Note as follows:

'A) There has never been any complaints of noise made to the Councils Environmental Health Team and indeed there is a Noise Level set for the operation and the response for the previous consultation there were no objections to the proposed change of use subject to the noise levels being conditioned.

B) The use of this area as a car showroom would create more traffic movements to the site than the proposed change of use would.

C) Members may recall there were claims that cars were being left jacked up on the forecourt. The photo shown related to 1 isolated occurrence, where a customer had damaged a wheel and had arrived early to leave the car, before

the business was open and had parked in on land in the applicant's ownership and not blocking any rights of way, but had not left their keys. As a result, the one wheel was removed and repaired and the vehicle picked up later in the day.

D) There is a right of way from the main footpath along the gable end wall of the houses over which the owners get access to the rear yard area'.

- 2.3 The application is brought to the Development Panel as a resubmission to application FUL/2022/0115, which was determined by Members. However, a request has also been received from Councillor Stoddart that the application be brought to the Development Panel for discussion.

3. Proposal

- 3.1 The proposal seeks planning approval for the change of use of a showroom located in the upper ground floor of the building, to a workshop facility. The application is retrospective. It is indicated that the use commenced in 2016. The proposed hours of opening are 8:00–18:00 Monday to Friday and 8:00-16:00 on Saturday.
- 3.2 The Plans and Documents for consideration are:-
IE/KT/23/01 – Location Plan (received 8th March 2023)
IE/KT/23/02 – Block Plan (received 8th March 2023)
IE/KT/23/DAS - Design and Access Statement
IE/KT/23/PS - Planning Statement

4. Site Description

- 4.1 The development site is located within the upper floor of 322 Moss Bay Road, Workington, to the rear of a terrace of dwelling houses at the southern end of Moss Bay Road. Access to the property is available between the end terraced dwelling house at 314 Moss Bay Road and a block of three garages situated alongside the end terraced dwelling house at 324 Moss Bay Road. This access is also used by an adjacent garage at 322A Moss Bay Road, which is also positioned behind the terraced dwellings.
- 4.2 The upper floor of 322 Moss Bay Road, which is the subject of the current planning application, is accessible at ground level. The lower floor of 322 Moss Bay Road is currently in use as a vehicle repair business. Parking serving the business is located to the rear of the building.

5. Relevant Site History

- 5.1 The following applications are considered to be of relevance to decision taking:
- 2/1983/0902 – Use of building at Westfield Wagon Works, Moss Bay Road, Workington as a car repair workshop and sales area – Approved

2/1991/0035 – Erection of 3 no. dwellings at Mossbay Road, Workington – Approved

2/1995/0207 – Change of use to garage to store ten taxis at Irvings Bodyworks, 322 Moss Bay Road, Workington - Approved

2/2005/0652 – Erection of 3 car garage block at 322 Mossbay Road, Workington - Refused

2/2005/0931 – Erection of 3 car garage block (resubmission to 2/2005/0652) at 322 Mossbay Road, Workington – Approved

2/2022/0115 – Change of use of showroom to workshop facility at 322 Moss Bay Road, Workington – Refused

- 5.2 Permission was given to use 322 Moss Bay Road as a car repair and workshop sales area under 2/1983/0902, subject to the following condition:
'Notwithstanding the provisions of the General Development Order 1977 the use of the car showroom shall not be changed at any time to any other use, without the prior consent of the Local Planning Authority'.
The presence of this condition on the 2/1983/0902 planning approval, has resulted in the requirement for the current planning application.

6. Representations

Town Council

- 6.1 No response to date.

Highways Authority and Lead Local Flood Authority

- 6.2 Taking into account the existing use of the building, the Highways Authority consider that the proposal will be unlikely to have a material effect on existing conditions, and therefore have no objections to the proposal.

Environmental Health

- 6.3 The comments remain unchanged from the previous submission:

This is retrospective application for a change of use of the upper ground floor of the split level building from a car showroom to a workshop, I would like to clarify that we have never received any noise complaints as a result of the existing operations on site including the retrospective use of the upper ground floor workshop.

Further to my comments in November on the above application, I have now been made aware of the previous historic permission granted for housing in 1991 which is directly adjacent to the proposed workshop, by implication of this

permission the existing workshop at that time was subject to hours of operation and a noise condition which had to be complied with. It is now reasonable to apply the same conditions to the current change of use within the same building as follows:

- Whereby the noise emanating from the premises shall not exceed NR40 when measured at the monitoring location (see attached plan) during the operation of the proposed workshop. All measurements to assess compliance must comply with BS7445 part 1, 2 and 3.
- All openings on the South Eastern elevation of the proposed workshop shall remain closed at all times whilst machinery/plant is in operation inside the proposed upper ground floor workshop to mitigate against any noise breakout associated with the operation of refurbishing alloy wheels.
- The proposed upper ground floor workshop operates Monday to Friday 8am-6pm and Saturdays 8am- 1pm and no working on Sundays or Bank Holidays, this is consistent with the hours maintained by the existing ground floor workshop.

In view of my comments above, I have no objections to the proposed change of use subject to my recommendations being implemented.

6.4 The application has been advertised on site and neighbouring properties have been notified. Four letters of objection have been received which raise the following issues:

- Should this area be used again for business it would start up all the previous problems.
- The business often blocks access to the back of the houses, parking spaces and allotments for other houses on the road. Neighbours have a right of access.
- There have been instances when the business would have a car without wheels blocking the exit, which would require a considerable wait for access.
- When the adjacent residential properties were developed, a restriction was placed on the facility so that it could only be used as a showroom or store facility, to avoid congestion in the area directly outside the showroom.
- The use of the upper area and top entrance has resulted in this land being overtaken and becoming a garage forecourt, staff and customer car park with overspill onto the main road.
- Using the space as a workshop would mean more traffic in the residential area.
- Using this space as a workshop would mean that more cars are moved up and down causing a safety hazard in the residents' area. The residents need to cross this access road to get to their own cars and garages.
- Employees have started to park on Moss Bay Road and private land because the site at the bottom is overflowing. It is anticipated that this situation will get worse.
- The proposal would result in the business bringing cars to the upper level which they are not doing now.
- The block plan is misleading as it doesn't make clear the limited access to the application area due to the hill beside it and a wall, which means there is only a narrow access which can easily be blocked.

- The diagram suggests they can use all the area in blue when they don't have permission to do this and this does not match the deeds for number 314.
- The neighbouring houses are on a main road where cars cannot park due to double yellow lines down one side of the road and the high volume of houses which often have more than one car. Access at the rear is therefore essential for parking for the houses.
- Access in the area is particularly restricted with limited access to the front of the properties due to the roundabout on the intersection between Moss Bay Road and Westfield Drive.
- When the workshop was used without permission, music, noise and rubbish caused nuisance to neighbours who have back yards just a few feet from the site.
- There are children living on the row and parents are now reluctant to let them out onto the back lane.
- They should look for new premises to help them to expand to their potential.
- If a business is looking to expand it should not be to the detriment of residents.

7. Environmental Impact Assessment

- 7.1 With reference to the Town and Country Planning (Environmental Impact Assessment Regulations 2017, the development falls within neither Schedule 1 nor Schedule 2. As such it is not EIA development.

8. Duties

- 8.1 Does the site affect the setting of a listed building?

No

- 8.2 Is the site within a designated conservation area?

No

- 8.3 Is the Development likely to have a significant effect upon the National Site Network?

No

9. Development Plan Policies

Allerdale Local Plan (Part 1)

Policy S1 - Presumption in favour of sustainable development

Policy S2 - Sustainable development principles

Policy S3 - Spatial Strategy and Growth

Policy S5 - Development Principles

Policy S12 – Land and Premises

Policy S22 - Transport principles
Policy S32 - Safeguarding amenity
Policy DM4 – Expansion and intensification of employment sites

10. Other material considerations

National Planning Policy Framework (NPPF) (2019)

Allerdale Borough Council Plan 2020-2030

Environmental Bill 2021

11. Policy weighting

- 11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 and the Allerdale Borough Local Plan (Part 2) 2020 policies have primacy.

12. Assessment

Principle

- 12.1 Policy S1, S2 and S3 of the Allerdale Local Plan Part 1 outline the presumption in favour of sustainable development, requiring new development to adhere to sustainable principles and comply with the Borough's approved settlement hierarchy. The main role and function of different areas is set through this strategy.
- 12.2 The application site is situated in Workington, which has been identified as the Principal Centre within the Spatial Strategy. The Principal Centre is expected to offer the widest range of services in terms of public transport, employment, retail, education and leisure facilities.
- 12.3 The principle of commercial development is therefore acceptable within Workington, subject to compliance with other relevant Local Plan policies.

Residential amenity

- 12.4 Policy S32 of the Local Plan Part 1 seeks to ensure new developments does not have an unacceptable impact on the residential amenity of existing properties. Similarly, Policy S12 of the Local Plan Part 1 states that the upgrade, extension or intensification of existing business will be supported where the proposal does not result in overriding adverse impacts on the amenities of the surrounding area.

- 12.5 The building at 322 Moss Bay Road has been in use for commercial purposes for a number of years. Planning permission for the use of the building for garage repairs was granted under 2/1983/0902. The layout details submitted with this application identified the lower floor as a vehicle repair body shop with the upper area designated as a showroom (cars for re-sale & customers cars awaiting collection). A condition was attached to planning approval 2/1983/0902 that, 'Notwithstanding the provisions of the General Development Order 1977 the use of the car showroom shall not be changed at any time to any other use, without the prior consent of the Local Planning Authority'.
- 12.6 The current proposal relates to the change of use of the showroom to a workshop facility. The Design and Access Statement submitted alongside the application states that the workshop would be used in connection with the business for the refurbishment of alloy wheels. It is indicated that this use started in 2016, therefore the application is retrospective.
- 12.7 Concerns have been raised by neighbouring residents that music, noise and rubbish emanating from the application area has caused nuisance to adjacent properties, due to the proximity of the application building to the neighbouring properties and private rear yards.
- 12.8 It is noted that the lower floor of the building is currently being used for vehicle repairs and that the upper floor has a lawful use as an associated showroom area. These lawful uses of the building would result in commercial activity within the building as well as associated customer and delivery movements to and from the site.
- 12.9 The proposed use of the showroom area as a workshop would likely create similar levels of activity, as well as comparable vehicular and customer interactions to the existing lawful uses. It is therefore considered that the use proposed within the current planning application would be commensurate in activity and movements with that of the existing business.
- 12.10 The Council's Environmental Health Department note the retrospective nature of the current application and indicate that there have not been any noise complaints received as a result of existing operations on site, including the retrospective use of the upper ground floor workshop. A previous historic permission for housing under 2/1991/0035, directly adjacent to the application building, is noted. By implication of this permission the existing workshop at the time was subject to hours of operation and a noise condition which had to be complied with. It is considered reasonable to apply the same conditions to the current proposal within the same building. Conditions are therefore suggested to secure the closure of the roller shutter doors whilst the workshop is in operation to mitigate any noise breakout, to secure working hours consistent with that of the existing ground floor workshop, Monday to Friday 8am-6pm and Saturdays 8am-1pm with no working on Sundays and Bank Holidays, and to limit noise emanating from the premises. Subject to the implementation of the proposed conditions to safeguard the amenity of adjacent residential properties, the Environmental Health Department raise no objections to the proposal.

12.11 It is the opinion of Officers that the proposed use would not have a significantly greater adverse impact upon adjacent residential amenity than that of the existing lawful business. It is recommended that conditions be attached to any planning approval in line with the recommendations of the Council's Environmental Health Department, to secure appropriate hours of opening and noise limitations in line with earlier consents, and that the doors of the upper floor be securely closed during operations, to safeguard adjacent residential amenity. With the inclusion of such conditions, the proposal is considered to be in accordance Planning Policies S32, S12 and DM15 of the Local Plan Part 1 in relation to safeguarding amenity.

Highways

- 12.12 Planning Policies S2, S5 and S22 of the Local Plan Part 1 seek to ensure that development will not harm highway safety and provide acceptable arrangements for car parking and access.
- 12.13 The site is accessed using the existing access point from Moss Bay Road. Parking is available for the building to the rear. The applicant indicates within the submitted Design and Access Statement that the facilities would not generate any additional vehicle movements to the site than at present.
- 12.14 Concerns have been raised by neighbouring residents that since the business started operating the residential parking areas and the upper area have been occupied by customers or staff during working hours, leading to a lack of parking for residents and the area looking like a garage forecourt, with overspill onto the highway. Neighbours also indicate that access to the rear of residents' properties have been blocked by parked cars, which is essential to residents given the lack of on street parking in this area. There are concerns for safety of children and residents due to the increase in traffic to the building.
- 12.15 The character of the area is of a mixed commercial and residential nature. Terraced dwelling houses front onto Moss Bay Road, with the application building and that of an adjacent commercial garage being accessible between two blocks of terraced houses. A block of three garages has been erected, the rear of which front onto Moss Bay Road. Additional resident parking spaces have been allocated within earlier planning applications, most recently in the planning application for the terrace of dwellings at 310, 312 and 314 Moss Bay Road.
- 12.16 The existing lawful use of the building is a vehicle repair business and an associated showroom area. It was indicated on the submitted layout plan with the application relevant to these uses (under 2/1983/0902) that the showroom would include cars for re-sale and customers' cars awaiting collection. The existing use would therefore result in commercial vehicular activity and movements to and from the site. It is considered likely that the proposed use would result in similar levels of vehicular activity and movements to and from the site.
- 12.17 Cumbria County Council's Highways Department indicated that they have carried out a site visit within the comments received in relation to planning application FUL/2022/0115. Following this visit, they considered that based on the existing use of the premises, the proposal would not lead to an increase in vehicular

traffic to and from the site. This opinion has been reiterated in the comments received in relation to the current planning application. They therefore raise no objections to the proposal.

- 12.18 The applicants have submitted a revised block plan within the current planning application, identifying the various areas of land around the application building and their uses. The applicant has indicated that they would have no objection to the imposition of a planning condition restricting operations to the application building only, with no external operations. It is therefore considered appropriate to attach a relevant condition to any planning approval.
- 12.19 Whilst neighbouring properties have raised concerns relating to highways safety, particularly parking, it is considered that the existing lawful use would compare with that proposed within the current planning application. The NPPF notes that *'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*. Given the existing commercial uses and activity at the site, and the lack of objection from Cumbria County Council's Highways Department to the proposal, it is considered that the proposal would not have a significant adverse impact on highways safety. The proposal is therefore considered to be in accordance with Planning Policies S2, S5 and S22 of the Local Plan Part 1 in relation to Highways safety.

13. Local Financial Considerations

- 13.1. Having regard to S70 (2) of the Town and Country Planning Act. There may be matters regarding Business Rates Revenue for the Council. This has carried no weight in the determination.

14. Balance and conclusions

- 14.1 The proposed use of the upper floor of the building would be in place of an existing showroom use, associated with the commercial workshop to the lower floor of the building. On balance, it is considered that the proposed change of use of the showroom to a workshop facility would not differ significantly from that of the existing uses in operation from the site, in terms of vehicular traffic to and from the site and existing amenity standards. The further statement and block plan submitted with the application since Panels previous consideration allows for additional conditions to be included to ensure there will be no unacceptable harm to adjacent residential amenity by containing workshop activity inside the building and controlling the locations used by customer parking.

15. RECOMMENDATION

GRANT planning permission subject to planning conditions

Annex 1

CONDITIONS

In Accordance:

1. **The development hereby permitted shall be carried out solely in accordance with the following plans:**
 - a. **IE/KT/23/01 – Location Plan**
 - b. **IE/KT/23/02 – Block Plan**
 - c. **IE/KT/23/DAS – Design and Access Statement**

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

Post-commencement/ Pre use-commencement conditions:

2. **The development hereby approved shall solely be carried out from the building marked A on approved drawing numbers IE/KT/23/01 and IE/KT/23/02 received 8th March 2023, with no external operations to be carried out at any time.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014
3. **The use hereby permitted shall be restricted to the hours of operation between 8am and 6pm Monday to Friday and between 8am and 1pm Saturdays, and not at all on Sundays or Bank Holidays.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.
4. **The openings on the south east elevation to the workshop area hereby approved shall remain closed whilst machinery/plant is in operation from the workshop, other than for access.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.
5. **Noise emanating from the premises shall not exceed NR40 when measured at the monitoring location (see attached plan) during the operation of the proposed workshop. All measurements to assess compliance must comply with BS7445 part 1, 2 and 3.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 6. There shall be no parking of customer vehicles within the areas marked E (section between no. 314 Moss Bay Road and area D shown hatched in Magenta only), and F on the approved drawing numbers IE/KT/23/01 and IE/KT/23/02 received 8th March 2023, at any time.**

Reason: In the interests of preserving the amenity of neighbouring residents by virtue of noise disturbance and to safeguard access to residents off road parking, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014

