

**Report of the Chief Executive**

<b>APPLICATION NUMBER:</b>	<b>19/00779/FUL</b>
<b>LOCATION:</b>	<b>FORMER DYEWORKS SITE, WEST END STREET, STAPLEFORD, NG9 7DA</b>
<b>PROPOSAL:</b>	<b>CHANGE OF USE FROM FORMER DYEWORKS (CLASS B2) TO STORAGE AND DISTRIBUTION (CLASS B8) FOR A TEMPORARY PERIOD OF 3 YEARS</b>

Councillor R D MacRae has requested this application be determined by Planning Committee.

1 Executive Summary

- 1.1 The application seeks permission to change the use of the land from Class B2 to a storage and distribution use (Class B8) for a temporary period of three years. The proposed delivery and collection hours of commercial vehicles to the site are 08:00 – 17:00 hours Monday to Friday, 08:00 – 13:00 hours on Saturday and closed on Sundays and bank holidays.
- 1.2 Planning permission was previously granted for seven industrial units and an office block (reference 13/00609/FUL). Although this permission was lawfully implemented (see history section), the land is now included with the designated safeguarding zone for HS2 meaning it is highly unlikely that these units will be constructed. The land is largely vacant apart from a two storey flat roof building, some building materials and storage containers on site.
- 1.3 The main issues relate to whether the principle of the change of use would be acceptable, the proximity with a railway line and the HS2 safeguarding zone, flood risk and highway safety and whether there will be an unacceptable impact on neighbour amenity.
- 1.4 It is considered that the application is acceptable in these regards and the Committee is asked to resolve that planning permission be granted subject to conditions outlined in the appendix.

**APPENDIX****1     Details of the Application**

- 1.1     The application seeks permission to change the use of the land from Class B2 to a storage and distribution use (Class B8) for a temporary period of three years. The intention is for the land to be rented out to businesses to store portable cabins and portaloo's (but not for these to be repaired, maintained or cleaned on site), building materials (but nothing perishable) and a maximum of five steel containers. The portable buildings will not be stacked on site.
- 1.2     The proposed delivery and collection hours of commercial vehicles to the site are 08:00 – 17:00 hours Monday to Friday, 08:00 – 13:00 hours on Saturday and closed on Sundays and bank holidays.
- 1.3     Planning permission was previously granted for seven industrial units and an office block (reference 13/00609/FUL). Although this permission was lawfully implemented (see history section), the land is now included with the designated safeguarding zone for HS2 meaning it is highly unlikely that these units will be constructed. The land is largely vacant apart from some building materials and storage containers on site.

**2     Site and surroundings**

- 2.1     The site is predominantly open with the exception of the north east corner where there is a two storey building. The site rises from north to south and the site is accessed from West End Street. The site was historically used as a dye works and the Palace Cinema (now demolished) fronted onto Derby Road.
- 2.2     Beyond the north boundary there is a vacant site which was previously used for industry. The building has since been demolished. To the west of the site there is the railway line and to the south is Derby Road. It is noted that nos. 242, 244, 248, 250, 252, & 254 Derby Road to the south east of the site are vacant buildings which were previously occupied for residential/commercial uses. An application has been granted permission for 11 apartments, external alterations and rear extensions to these buildings which has not yet been implemented.
- 2.3     The northern part of the site lies within Flood Zone 3 (high probability of flooding). The central part of the site lies within Flood Zone 2 (medium probability of flooding) and the southern part of the site lies within Flood Zone 1 (low probability of flooding).
- 2.4     The site is within the HS2 Safeguarding Zone.

**3     Relevant Planning History**

- 3.1     Planning permission (ref 13/00609/FUL) was granted in 2014 to construct 7 industrial units (Class B2), an office block, 2 bin stores and a new access to Derby Road.

- 3.2 A Certificate of Lawfulness (17/00523/CLUE) was issued to confirm that the planning permission had been implemented for 13/00609/FUL.

4 Relevant Policies and Guidance

4.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

- 4.1.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in Favour of Sustainable Development
- Policy 1: Climate Change
- Policy 10: Design and Enhancing Local Identity
- Policy 15: Transport Infrastructure Priorities

4.2 **Part 2 Local Plan**

- 4.2.1 The Council adopted the Part 2 Local Plan on 16 October 2019.

- Policy 1: Flood Risk
- Policy 9: Retention of Good Quality Existing Employment Sites
- Policy 17: Place-making, Design and Amenity
- Policy 19: Pollution, Hazardous Substances and Ground Conditions

4.3 **National Planning Policy Framework (NPPF) 2019:**

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision-making
- Section 11 – Making Effective Use of Land

5 Consultations

- 5.1 **Council's Environmental Health Officer:** no objection subject to the premises only operating between: 07:30 – 18:00 Monday to Saturday and at no time on Sundays, bank holidays and other public holidays. Deliveries by commercial vehicles should not be made outside of these hours.

- 5.2 **Nottinghamshire County Council as Highways Authority:** raises no objection due to there being an estimated 10 trips per day which is considered to be minimal.

- 5.3 **Network Rail:** no objection.

- 5.4 **HS2:** raise no objection but recommend an advisory to in respect of the land being compulsory purchased for the construction of the Phase 2b line.

- 5.5 **Stapleford Town Council:** Incorrect flood risk assessment submitted, vibrations will have a negative impact on the structure of properties fronting the highway and concerns in relation to the size of vehicles using a narrow street.

5.6 33 neighbouring properties were consulted and two responses were received, one raising an objection and one raising observations which can be summarised as follows:

- Questions if the site will have restricted hours
- Noise disturbance late at night and early mornings
- Noise from loading/unloading vehicles
- Lorries, vans and cars access the site all hours of the day and night and can be noisy when parked on West End Street
- Object to unsocial hours for access, loading and unloading
- Object to large vehicles and machinery
- Cars being repaired on site at night
- Questions raised in regards to operational hours, types of storage material, weight of vehicles and businesses that will use the land
- Damage to car from vehicles associated with the site.

## 6 Assessment

6.1 The main considerations relate to whether the principle of the development is acceptable, with particular regard to the impact on the HS2 safeguarded zone, if there will be an unacceptable loss of amenity to any neighbours, if the development is acceptable in terms of flood risk and if there will be any unacceptable highways impact as a result of the development.

### 6.2 **Principle**

6.2.1 Policy 15 of the Aligned Core Strategy refers to any development allowing for adequate provision for the construction of the HS2 route and the NPPF refers to the need for any significant impacts from the development on the transport network being able to be mitigated to an acceptable degree. As the permission is for a temporary change of use of the land for storage only and HS2 has not objected to the application, it is considered the granting of this application would not restrict the growth of Phase 2b of HS2.

6.2.2 Planning permission (reference 13/00609/FUL) was previously granted to construct 7 Industrial Units (Class B2) light industry, an office block, 2 bin stores and a new access to Derby Road. This permission has been implemented and therefore could be constructed in full; however, this is highly unlikely given the site now falls within the Safeguarding Directions for Phase 2b of HS2. As part of this application, HS2 Ltd did not object as a decision regarding the route had not yet been finalised. However, they did highlight that the site may in future be required by HS2 Ltd to construct and/or operate the railway. A previous application (reference 18/00308/FUL) was refused due to HS2 Ltd objecting as a substantial part of the site is now established as being located within land subject to the Safeguarding Directions for Phase 2b of HS2.

6.2.3 It should also be acknowledged that the site is identified as a viable employment site for B Class employment uses within Policy 9 the Part 2 Local Plan (2019).

6.2.4 Given the extant planning permission which proposed a more intensive use of the site, it is considered the principle of the site being used for storage for a temporary period of three years is acceptable. Furthermore, conditioning the delivery and collection of commercial vehicles between the hours of 08:00 – 17:00 Monday to Friday, 08:00 – 13:00 on Saturday and closed on Sundays and bank holidays, is considered to be acceptable and would control the number of movements associated with the site within a reasonable timeframe.

6.2.5 As HS2, Network Rail, Environmental Health and the Highways Authority have not objected to the application, it is considered the principle of the temporary change of use for the land to be used as storage is acceptable.

### **6.3 Amenity**

6.3.1 It is evident from the responses received there are concerns in relation to the operational hours of the site and the noise and disturbance created from vehicles travelling up and down West End Street.

6.3.2. The previous planning permission (13/00609/FUL) to construct 7 Industrial Units (Class B2) light industry, an office block, 2 bin stores and a new access to Derby Road has been implemented; however, the site largely remains vacant. Although it is unlikely this permission will be implemented in full due to the site being located in the HS2 safeguarding zone, the principle of a significantly more intensive scheme has already been established. Although the access from West End Street would have been made redundant, the noise and disturbance created from seven industrial units with associated parking (close to residential properties) would likely be greater than the noise and disturbance created from using the land for storage.

6.3.3 The supporting statement outlines that the amount of trips associated with the site will likely be 10 a day. The Highways Authority has raised no objection and consider the amount of trips to be minimal. It is likely that the proposed change of use will not generate a significant amount of trip movements (that is dissimilar to what is already experienced with the site) given the nature of the site being used to store materials.

6.3.4 As the previous permission 13/00609/FUL has been implemented, the delivery and collection hours for commercial vehicles for the site are between 07:30 - 21:00 Monday to Friday, 08:00 - 18:00 Saturday and at no time on Sundays, bank holidays and other public holidays. The proposed hours for this application are more condensed which largely fall within normal weekday working hours and Saturday morning to early afternoon. Therefore, the site will be conditioned to prevent deliveries and collections from commercial vehicles outside of the following hours: 08:00 - 17:00 hours Monday to Friday, 08:00 - 13:00 hours on Saturday and at no time on Sundays, bank holidays and other public holidays. By granting approval for this temporary permission, the site will have more restrictive hours for commercial vehicles and therefore could be an improvement to the current situation.

6.3.5 It is considered the impact of this temporary change of use will not be detrimental to the amenity of the future occupants of the 11 apartments to the south east of the site should this permission be implemented.

6.3.6 To conclude, the Highways Authority and Environmental Health have not objected, the proposed delivery and collection hours will be more restrictive than the current hours and the permission is temporary, therefore, it is considered the proposed change of use is acceptable and there will not be a detrimental impact on the amenity of surrounding neighbours.

#### **6.4 Flood Risk**

6.4.1 Parts of the site lie within Flood Zones 2 and 3. The incorrect Flood Risk Assessment (FRA) was submitted with the application; however, a new FRA was submitted.

6.4.2 The site relates to a change of use of the land to storage and distribution and is classified as being 'less vulnerable,' therefore, the Environment Agency classify this as being acceptable for development.

6.4.3 The FRA states the following: *"The proposal does not entail the construction of any new buildings within the site, therefore the potential to increase or decrease localised flooding will remain neutral as the volume within the flood plain will not be affected within the locality. There will be no change in the impermeable areas within the site nor is it intended to alter the local surface water drainage system."*

6.4.4 No employees will be based on the site but any staff associated with the site will be provided with a flood management plan. The applicant will sign up to the Environment Agency Flood 'early warning system.'

6.4.5 To conclude, it is considered that the change of use of the site is acceptable in terms of flood risk, given the fact this is for storage and distribution, no employees will work on site and those associated with the site will be made aware of flooding risks by the site owner.

#### **6.5 Other**

6.5.1 There is no requirement for the applicant to provide details of the weight of vehicles accessing the site and in any case, this is a matter that would be dealt with by the Highways Authority.

6.5.2 An incorrect FRA was submitted with the application for a neighbouring site but still contained some relevant flooding information. An additional FRA was submitted specifically for this site.

6.5.3 It is considered the commercial vehicles accessing the site would not cause significant enough vibrations to impact on the structures of neighbouring buildings and properties.

6.5.4 The possibility of cars being repaired on site is subject to a separate complaint.

- 6.5.5 Damage to cars from commercial vehicles is a matter that should be addressed directly with the site owner.

## 7 Planning Balance

- 7.1 The benefits of the proposal are that it would provide the applicant with a temporary use to maximise the profitability of the site whilst reducing the delivery and collection hours of commercial vehicles from the previous permission (13/00609/FUL). Whilst it is acknowledged there will be some impact on the neighbouring properties, it is considered this will not be detrimental given the reduced hours and low number of vehicle movements associated with the site. Therefore, on balance, it is considered the temporary change of use is considered to be acceptable and should be approved.

## 8 Conclusion

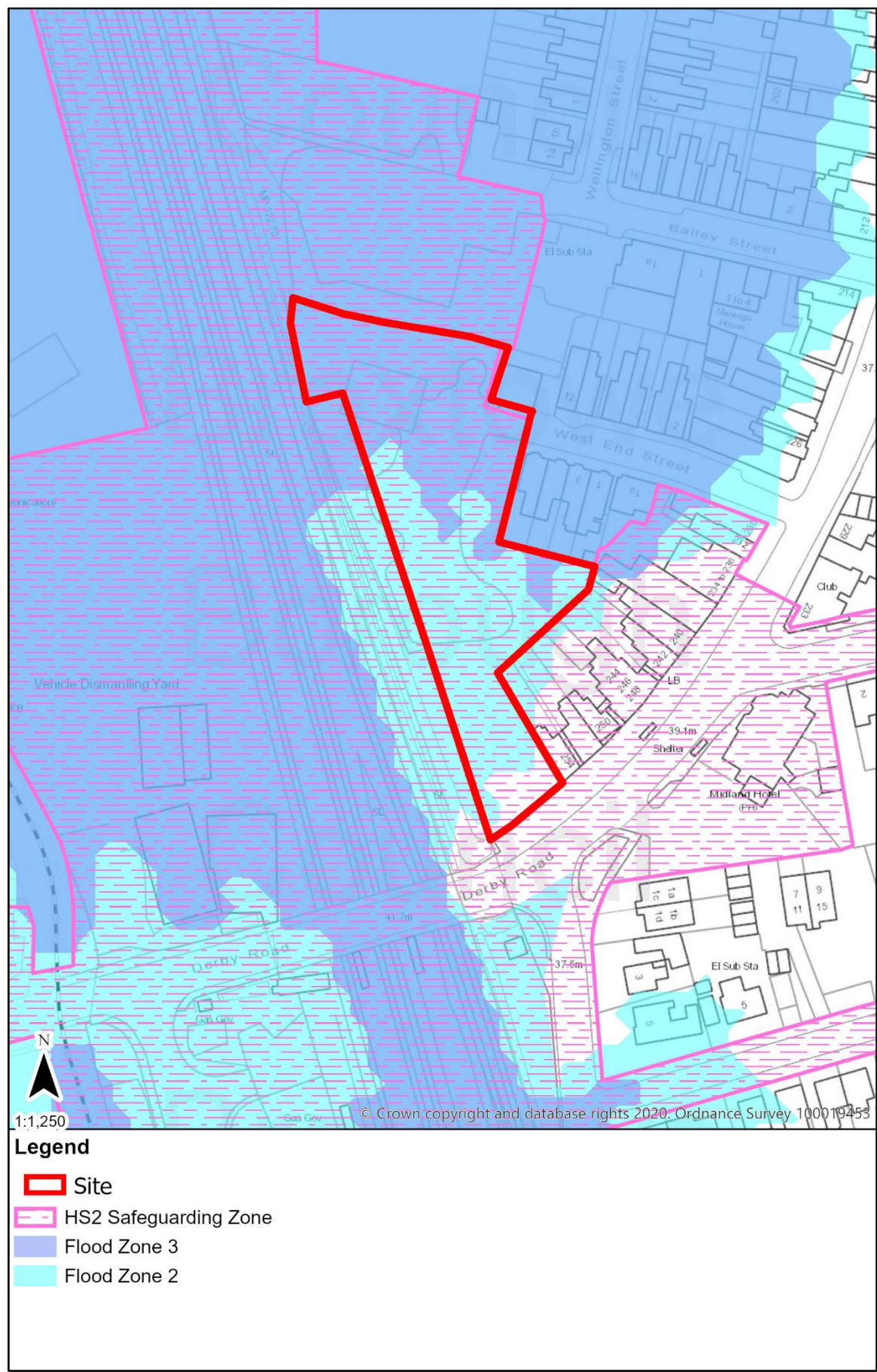
- 8.1 To conclude, it is considered the temporary change of use is acceptable, especially given the reduction in the delivery and collection hours for commercial vehicles to the site and the anticipated trips being estimated at no more than 10 a day.

<b><u>Recommendation</u></b>	
<b>The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions.</b>	
<b>1.</b>	<p><b>The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.</b></p> <p><b><i>Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.</i></b></p>
<b>2.</b>	<p><b>The development hereby permitted shall be carried out in accordance with the Site Location Plan (1:1250) received by the Local Planning Authority on 6 December 2019 and drawing number DB/MF/010/012/100 received by the Local Planning Authority on 12 December 2019.</b></p> <p><b><i>Reason: For the avoidance of doubt.</i></b></p>
<b>3.</b>	<p><b>Deliveries and collections by commercial vehicles shall only be made to or from the site between 08:00 - 17:00 hours Monday to Friday, 08:00 - 13:00 hours on Saturday and at no time on Sundays, bank holidays and other public holidays.</b></p> <p><b><i>Reason: To protect the immediate residents from excessive operational noise.</i></b></p>
<b>NOTES TO APPLICANT</b>	

1.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.
2.	The site falls within land that may be required to construct and/or operate Phase 2b of a high speed rail line known as High Speed Two. Powers to construct and operate High Speed Two are to be sought by promoting a hybrid Bill in Parliament. As a result, the application site may be compulsory purchased. Please visit <a href="https://www.gov.uk/government/organisations/high-speed-two-limited">https://www.gov.uk/government/organisations/high-speed-two-limited</a> for more information.
3.	The site owner should register to receive flood warnings and inform those associated with the site.



Map





Photographs



View of entrance from West End Street facing east



Two storey building to the north of the site



View of site facing north



View of site facing west



View of site facing south west



View of site facing south