

DK MOTORCYCLES, SWIFT HOUSE, LIVERPOOL ROAD, CROSS HEATH  
AUTO ACCEPT FINANCE. 12/00770/FUL

**The Application** is for the retention of use of land for car sales within the site of DK motorcycles which has a lawful use of the premises for motorcycle sales; the sale of motorcycle accessories; and the service, repair and MOT testing of motorcycles.

As indicated the car sales use has already commenced on site.

The site is located in the Urban Area of Newcastle under Lyme as identified on the Local Development Framework Proposal Map.

**The statutory 8-week determination period expires on 31 January 2013.**

### **RECOMMENDATION**

**Permit subject to conditions relating to the following matters:-**

- (i) **Approved plans/drawings/documents.**
- (ii) **Access, parking, servicing and turning areas.**
- (iii) **No cars to be parked on the front parking area if the temporary permission is implemented at any time.**
- (iv) **Car sales to operate Monday to Saturday only and for the hours that are currently permitted (under planning permission 09/00548/COU.**
- (v) **Continuation of existing one way system around the site.**

### **Reason for Recommendation**

The retention of the use of the land for car sales is considered to represent an acceptable diversification of the existing business and operations of the site that is unlikely to result in significant highways safety concerns or impact on neighbouring residential amenity levels, subject to conditions. The development therefore accords with the guidance and requirements of the National Planning Policy Framework whilst also being in accordance with policies of the development plan and there are no other material planning considerations that would justify refusing the proposed development.

### **Statement as to How the Local Planning Authority Has Worked in a Positive and Proactive Manner in Dealing With This Application**

This is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

### **Policies and Proposals in the Approved Development Plan Relevant to This Decision:-**

#### **West Midlands Regional Spatial Strategy 2008 (WMRSS)**

Policy QE1: Conserving and Enhancing the Environment  
Policy QE3: Creating a High Quality Built Environment for all  
Policy T7: Car Parking Standards and Management

#### **Staffordshire and Stoke on Trent Structure Plan 1996 - 2011**

Policy D1: Sustainable forms of Development  
Policy D2: The Design and Environmental Quality of Development  
Policy E7: Existing industries  
Policy T12: Strategic Highway Network  
Policy T13: Local Roads

#### **Newcastle under Lyme and Stoke on Trent Core Spatial Strategy**

Policy SP2: Spatial principles of Economic Development

## Newcastle under Lyme Local Plan 2011

Policy T16: Development - General Parking Requirements

### **Other Material Considerations Include:-**

#### **National Planning Policy Framework (March 2012)**

#### **Relevant Planning History**

1997	97/00268/COU	Permit – 16 June 1997 - change of use of part of ground floor area to motorcycle and spares sales – implemented.
2003	03/00511/FUL	Permit in part – 13 February 2004 - change of use of part of ground floor area to motorcycle and spares sales with out complying with Conditions 2 (testing) and 5 (hours of operation of the use) subject to which planning permission 97/00268/COU was granted.- implemented (testing area formed).
2003	03/01056/COU	Change of use of first floor storage area to form a new motorcycle sales area with associated external alterations – permit with same condition as above 24 December 2003 - implemented.
2005	05/01240/FUL	Permit – 28 April 2006 - two storey extension forming additional ground floor sales area for off road motorcycles and first floor accessories shop, together with additional car parking – implemented only insofar that the additional parking referred to has been provided, as has an acoustic fence the subject of a planning condition.
2009	09/00181/COU	Refuse – 21 May 2009 - variation to condition Number 5 of planning permission 97/00268/COU, condition 5 of planning permission 03/00511/FUL and condition1 of planning permission of planning permission 03/01056/COU so as to permit Sunday retail of motorcycles and motorcycle accessories from 11am to 5pm.
2009	09/00548/COU	Permit – 19 November 2010 - variation to condition 5 of planning permissions 03/00511/FUL & 97/00268/COU and condition 1 of 03/01056/COU to allow retail sales of motorcycles and motorcycle accessories from 10:00 to 17:00 hours on Sundays and reduced by one hour during the week through the amendment of opening hours from 08:00 to 09:00 hours on Monday to Saturday (closing time to remain at 18:00 hours).
2010	10/00391/FUL	Permit – 24 August 2010 - variation to condition 3 of Planning Permission 09/00548/COU so that the existing one way system imposed by Condition No.8 of Planning Permission 03/00511/FUL shall remain in operation during all trading hours but no motorcycles shall pass through the control barriers on Sundays and all vehicles that pass through the barrier shall egress via Wilton Street only.

#### **Views of Consultees**

The **Highways Authority** raises no objections subject to a condition that the access, parking, servicing and turning areas are provided in accordance with the submitted drawing with the staff and customer parking areas clearly delineated and be retained for the approved use only for the life of the development.

The **Environmental Health Division** raises no objections subject to conditions requested on the previously approved planning application. These were that the use is for a trial approval of 12 months so that the impact of the proposal can be monitored, and motorcycles only being parked in the front car park, appropriately worded signage, and the permanent removal of the hot food take away unit.

#### **Representations**

No letters of representation have been received.

## **Applicant/Agent's Submission**

The application is supported by a Planning statement detailing the following key points:-

- DK Motorcycles currently operate a sales, repair and maintenance of motorcycles business. As well as the sale of motorcycles (used and new), DK Motorcycles sell a range of motorcycle parts, accessories, helmets, and clothing products.
- DK Motorcycles also have an established and rapidly growing mail order business, which is mainly conducted over the internet, selling motorcycle parts and clothing to the general public.
- Planning permission only exists at present for the sale of motorcycles and accessories (Sui Generis), and given the extent of car sales on site, permission is required for this additional operation.
- The surrounding area comprises a mix of commercial and residential uses.
- The sale of cars has grown gradually on site over the past 12 months and forms an ancillary part of the wider business operation at Swift House.
- AAF Cars LLP and DK Motorcycles are part of the same group, and over the past 12 months, the business has diversified to offer used cars for sale in addition to the existing motorcycle business.
- The display of used cars for sale is limited primarily to the outdoor display of vehicles, however part of the ground floor of the building (highlighted in green on drawing number AAF1/2-002) is now being utilised as an indoor car showroom, which can accommodate up to 8 vehicles and forms part of the retrospective application.
- Neither business operation operates on Sundays. Deliveries are normally made twice a week to the site (during weekdays) by 12 metre container vehicles, however these are associated with deliveries to DK Motorcycles. Cars are usually delivered to the site via single car transporters.

All of the application documents can be viewed at The Guildhall, and on the Council's website [www.newcastle-staffs.gov.uk/planning/dkmotorcycles](http://www.newcastle-staffs.gov.uk/planning/dkmotorcycles)

## **Key Issues**

The application is for the retention of car sales at DK Motorcycles which is a large commercial premises in use as a motor cycle repair and internal and external motor cycle sales area's set within a large site.

The car sales are operating within the curtilage on existing car parking areas to the side and rear. A section of the existing building is also being utilised for car sales also.

The site has had a number of previous applications for the use of the premises and subsequent variation of conditions but none relation to the sale of cars.

Key issues in the determination of the development therefore are:

- The principle of the change of use
- The impact on the residential amenity of nearby occupiers in terms of noise and air pollution,
- The impact on highway safety, and;
- Enforcement matters.

### **The principle of the change of use**

The application site operates as an established commercial premises with the repair, MOT testing and sale of motorcycles and accessories. The motorcycle sales business predominantly operates internally with the existing car sales being on the frontage and at the rear. A small section within the building is also been utilised for car sales and can accommodate 8 vehicles.

The applicant has detailed within the submission that the sale of cars is a diversification of the business. They also detail that the car sales predominantly rely on passing trade and internet sales.

The NPPF details at paragraph 19 that *"The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."*

Due to the nature of the existing motorcycle and accessories sales use and the nature of the car sales use, it is not considered that the vitality and viability of the town centre would be adversely affected. The diversification of the business is considered to support economic growth of the business which is supported by the NPPF. The principle of the change of use of the land for car sales is therefore considered acceptable in this location.

#### The impact on the residential amenity of nearby occupiers in terms of noise and air pollution

DK motorcycles is an established business in the Cross Heath area of Newcastle but the area can be characterised as a mixed land use with residential properties in close proximity to both the car park and the main buildings of the site.

The NPPF in paragraph 123 details that "Planning policies and decisions should aim to:-

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

There is part of the internal and external areas of the premises that are used for motorcycle repair and MOT testing which have restrictions that have been imposed by condition of the previous planning permissions.

Furthermore, temporary planning permission for Sunday trading of motorcycles was given but this has not commenced and the applicant has indicated that due to a change in circumstances it is unlikely to.

A condition of the temporary 12 month permission was that on Sundays no motor cycles should pass through the control barrier, restricting motor cycle parking to the front of the premises (as detailed in the decision of 09/00548/COU and as amended by 10/00391/FUL). As discussed this restriction was for Sunday trading only. The applicant has not applied for Sunday trading of car sales. Therefore there is no conflict with the temporary permission if it were to be implemented in future but a condition ensuring that no cars are parking on the front (if the temporary permission is commenced) is recommended. This would address the objections raised by the Environmental Health Division. Restrictions on hours of operation is also recommended.

It is considered that the sale of cars is an intensification of the business use of the site but one which would not result in a significant increase in noise and disturbance to the locality and in particular neighbouring residential amenity levels in this mixed land use.

Therefore, subject to conditions the proposal would be in accordance with the guidance and requirements of the NPPF.

#### The impact on highway safety

The previous planning permissions have also placed restrictions on access, egress and vehicle movements around the site with a control barrier to the front side of the site.

The Highways Authority has raised no objections to the proposals subject to a condition that the access, parking, servicing and turning areas are provided in accordance with drawing no. AAF1/2-002 with the staff and customer parking areas clearly delineated and be retained for the approved use only for the life of the development.

Furthermore, a condition requiring the continuation of the existing one way system around the site is also recommended to prevent cars leaving the site via the A34 access point.

### Enforcement matters

Paragraph 207 of the NPPF deals with Enforcement and details that effective enforcement is important as a means of maintaining public confidence in the planning system.

A condition of the 1997 permission restricted the site for motorcycles only. Therefore the sale of cars was a breach of this condition and planning control. The Council advised the applicant to submit a planning application and as detailed above the sale of cars from the site does not raise any significant concerns, subject to the recommended conditions. The approval of this application would remedy the breach of planning control.

### **Background Papers**

Planning file

Planning documents referred to

### **Date Report Prepared**

8 January 2013