



Planning and Design Statement
to full planning application at
A L Engineering, Hall Lane, Yaxley, Eye IP23 8BY

On behalf of: A L Engineering and Sons/Mr & Mrs Ling

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Date: 14.12.2023

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Introduction

This planning, design & access statement accompanies a full planning application for a new MOT workshop building at A L Engineering (ALE) and the regularisation of other developments due to the passage of time, Hall Lane, Yaxley, Eye IP23 8BY.

Development proposals:

As advised by the validation team on 25.01.2024 by email, the proposal is as follows:

Change of use of land to facilitate the use of site for MOT testing and general vehicle repairs. Erection of MOT workshop. Filing in of pond on site and construction of hardstanding (retention of).

Planning Direct has been instructed to produce this statement on behalf of Mr & Mrs A Ling, the applicants and owners of ALE.

The statement should be read in conjunction with the following documentation:

- 2945.01.5 - A L ENGINEERING - LOCATION PRE-EXISTING SITE PLAN.pdf
- 2945.02.6 - A L ENGINEERING - EXISTING PROPOSED SITE PLANS.pdf
- 2945.03.6 - A L ENGINEERING - FLOOR PLAN.pdf
- 2945.04.4 - A L ENGINEERING - SOUTH EAST ELEVATION.pdf
- 2945.05.4 - A L ENGINEERING - SOUTH WEST ELEVATION.pdf
- 2945.06.4 - A L ENGINEERING - NORTH WEST ELEVATION.pdf
- 2945.07.4 - A L ENGINEERING - NORTH EAST ELEVATION.pdf
- Annexe A - Decision-DECISION NOTICE 0024-02 .pdf
- Annexe B - Affidavit.pdf
- Annexe C - DYN160124A.1 Rev. 1 MOT Workshop, Store House Farm, Hall Lane, Yaxley, Eye, IP23 8BY - BS4142.pdf
- Annexe D - 3356-RE-01-24-01.pdf - FRA
- Annexe E.1 - A L Engineering BNG Statement.pdf
- Annexe E.2 - A L Engineering BNG Plans.pdf
- Annexe E.3 - A L Engineering BNG Plans.pdf

Location & Site Description

The site is an industrial site located off Hawley Lane, near the junction with the A140.

A L Engineering & Sons Limited are a well-established, independently run business providing commercial vehicles (HGV, LGV, trailers, buses) with all their mechanical needs (<https://alengineeringltd.co.uk/>). The business started over 20 years ago with the approved planning permission allowing them to use an existing agricultural building and access to the highway pursuant to application 24/02 for the servicing and repair of machinery, plants and vehicles (see Annexe A and Fig 1.1).



Fig. 1.1: Extract from plan pursuant to 24/02

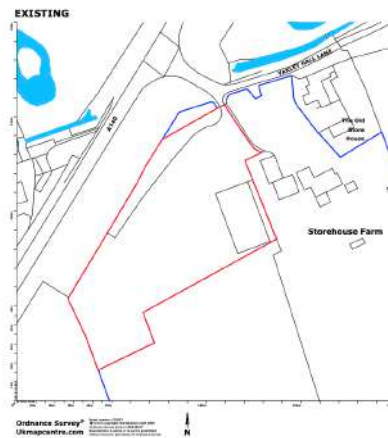
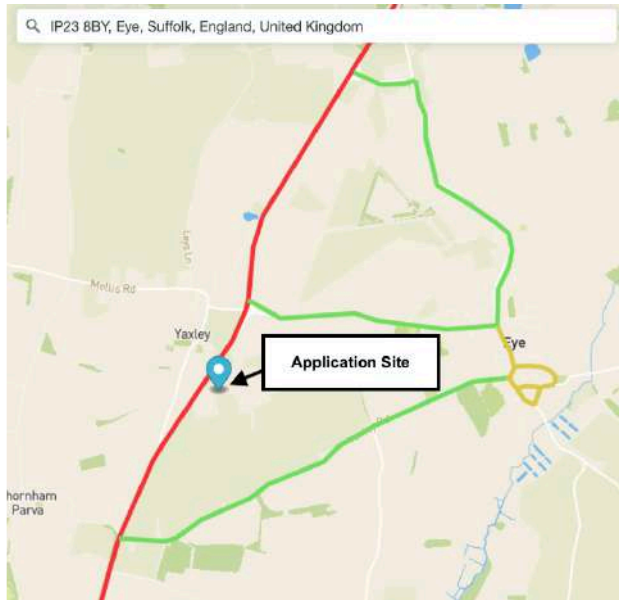


Fig. 1.2: Extract from existing site plan.

The nearby A140 is a designated Strategic Lorry Route, the preferred network for lorry movements. Located off the A 140 ALE's, customers can easily get to the workshop for all their engineering needs.



Key to map routes

Red - strategic lorry routes. All movements crossing Suffolk should use these, with those starting or ending in the county using them in preference to local lorry routes.

Blue - zone distribution lorry routes - roads within a zone serving as a route to a local access route.

Green - local access routes - roads or parts of roads serving as access to a specific location.

Yellow - local access routes with restrictions - roads or part of roads serving an access to a specific location where there is a weight restriction identified by a current Traffic Regulation Order (TRO). This also includes experimental Traffic Regulation Orders (ETRO).

Grey - lorry watch areas.

Fig.2: Extract from the Recommended Lorry Route Network Map - <https://www.suffolk.gov.uk/roads-and-transport/lorry-management/lorry-route-plan-review-in-suffolk/recommended-lorry-route-network-map>

Yaxley Hall Lane is characterised by a sporadic linear residential development pattern along its south side and is otherwise surrounded by agricultural land on all sides. The nearest dwelling house is to the east of the application site, Store House Farm, where the applicants reside. The A140 runs parallel to the application site's northwest boundary.

The nearest listed asset is the Laurels (List Entry Number: 1033116), some 100 m west of the application site beyond the A140 side, Yardley groundwater site and another residential unit.

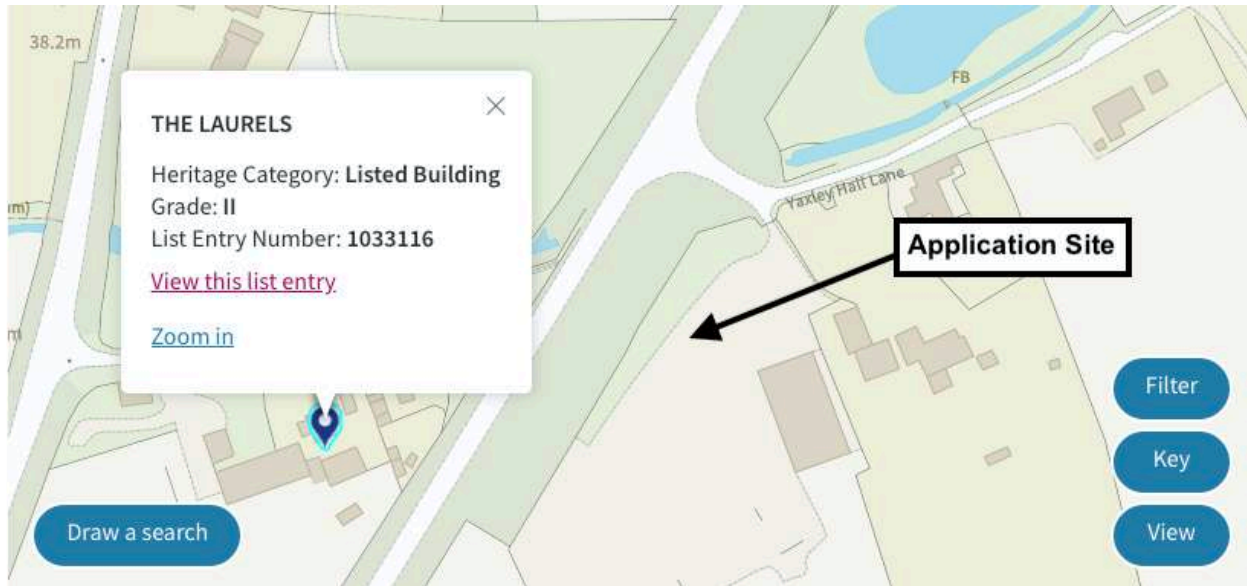


Fig.3: Extract from Historic England search list near the application site.

The application site is located in the NPPF Flood Zone 1, for fluvial and tidal flooding and not in any designated areas.

Proposed Development

Change of use of land to facilitate the use of site for MOT testing and general vehicle repairs Filing in of pond on site and construction of hardstanding (retention of):

The lawfulness due to the passage of time for this part of the application will be discussed further down in the commentary section of this statement.

New MOT Workshop:

The development proposal consists of an MOT test workshop to serve their existing needs and provide a while-you-wait service.

It will be a 12 m x 18 m x 6.2 m (see submitted plans) purposely built purposely purpose-built steel transport workshop. Specialised contractors in the construction of steel buildings and automotive types of equipment, Easy Steel Buildings and V-Tech Group Ltd will be constructing the workshop and equipping it.



Fig.4.1: example of steel building constructed by Easy Steel Buildings - <https://easysteelbuildings.co.uk/>



Fig.4.2: example of automotive testing equipment provided by V-Tech <https://v-techgroup.co.uk/>

Exterior Finishing:

- Walls: Azure Blue
- Roof: Goosing Grey
- Barge: Merlin Grey
- Gutter: Merlin Grey
- Corner flashing: Merlin Grey
- Ridge: Goosing Grey



Azure Blue*
RAL 220 30 25
BS 18C39



Goosewing
Grey
RAL 080 70 05
BS 10A05



Merlin Grey
RAL 180 40 05
BS 18B25

Fig.5: RAL number for the proposed building finishes.

Features:

- Depth of pits; Inspection Pit - 1.8m ;
- Break tester - 285 mm;
- A compressor that will be running at 68db (roughly the noise produced by a normal conversation and is generally considered to be a safe noise level that a person can be exposed to without experiencing harm or hearing loss.);
- No external light is proposed as part of this application.

Vehicles movements:

The applicants estimate that there are between 20 and 25 vehicle movements daily. At this moment in time, the applicant has to take the vehicles to another site to get them MOTed. Although the applicant will also offer a While-You-Wait service, on balance, the applicants estimate that the proposal will either keep the number of movements the same or potentially reduce it.

Employment:

ALE currently employs 11 people full-time, and the proposal will see 2/3 employment created.

Opening hours:

No change to the opening hours will result from the proposal. These are pursuant to application 24/02 (see Annexe X).

Thursday	7am-6pm
Friday	7am-6pm
Saturday	8am-1pm
Sunday	Closed
Monday	7am-6pm
Tuesday	7am-6pm
Wednesday	7am-6pm

Waste disposal:

This will remain unchanged. The applicant has a contract with the following suppliers:

- Safetykleen: to recycle their oil;
- Biffa: for their general waste (skip);
- Whip Street Motors: to recycle metal (skip).

Other facilities:

The staff welfare facilities (WC, Changing room), part stores, customer waiting room and office will remain in the main building.

The site is large enough to accommodate all their parking needs. The parking arrangements will remain as they exist. Customers will park outside the office facing the fence to the west of the application site.

History

Reference no.	Description	Decision	Date
0024/02	Use of disused agricultural buildings for the servicing and repair of Machinery, plant and vehicles.	Granted	08.03.2002

Policy Justification

National

NPPF (2023)

Paragraph 10 (Achieving Sustainable Development)

So that sustainable development is pursued in a positive way, at the heart of the Framework is a *presumption in favour of sustainable development*.

Paragraph 81 (Building a strong, competitive economy)

Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Paragraph 84 (Supporting a prosperous rural economy)

Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;

[...]

b) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Paragraph 85 (Supporting a prosperous rural economy)

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Paragraph 174 (Conserving and enhancing the natural environment)

Planning policies and decisions should contribute to and enhance the natural and local environment by:

[...]

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Local

Mid Suffolk Local Plan (1998) (saved Policies)

SECTION 2.2 HERITAGE AND LISTED BUILDING

Protection of historic buildings:

Policy HB1

The District Planning Authority places a high priority on protecting the character and appearance of all buildings of architectural or historical interest. Particular attention will be given to protecting the settings of Listed Buildings.

SECTION 2.4 THE COUNTRYSIDE AND THE RURAL ECONOMY

Protecting existing woodland:

Policy CL5

Development which would result in the loss of or damage of woodland, particularly ancient woodland, or disruption to commercial forestry will be refused. The felling of commercial conifer woodland will be supported where it does not adversely affect the character and appearance of the landscape.

Protecting wildlife habitats

Policy CL8

The district planning authority will refuse development likely to bring about:-

- the loss or significant alteration of important habitats including heathland, woodland, water meadows, other permanent pasture, parkland, marches, streams, ponds, green lanes, alder carr and osier beds;

- The threat to rare or vulnerable species, especially those protected by law.

where development is permitted, the retention of important wildlife habitats will be sought through planning conditions or legal agreement.

The district planning authority will consider entering into management agreements under the wildlife and countryside act 1981, which would secure a more comprehensive protection for, and management of, wildlife and ecological sites.

New industrial and commercial development in the countryside

POLICY E10

Applications for new industrial and commercial development in the countryside will not be permitted unless an overriding need to be located away from towns and villages can be demonstrated. Where such need can be demonstrated applications will be considered on their own merits having regard to the following:

- The impact of the development on the surrounding countryside, including its landscape and wildlife features;
- The prospect of pollution including the effect on nearby watercourses and groundwater sources;
- The amount of traffic generated and the likelihood of unacceptable traffic movements, particularly lorries, on non-principal roads;
- The loss of high quality agricultural land;
- The contribution to the rural economy;
- The employment opportunities created for nearby communities.

The district planning authority will, if considered necessary to protect the amenity and appearance of the surrounding countryside, consider the removal of permitted development rights under the general (permitted development) order 1995.

General principles for location, design and layout of industrial and commercial development

POLICY E12

when considering proposals for new development or extensions to existing industrial or commercial premises, the district planning authority will have regard to the following criteria:

- Building design should be to a high standard with proper attention to siting, scale, massing, density, detailing and materials;
- Siting and layout should, where practicable, take account of the possible need for future expansion;
- Roads and footpaths within the site, and access arrangements to the site, should be constructed to county highway authority standards;
- Traffic generated by the development should not prejudice the efficiency of the local highway system or adversely affect residential streets;
- Parking provision and room for loading, unloading and manoeuvring should be provided in accordance with the standards adopted by the district planning authority;
- Development should not adversely affect neighbouring properties or land uses by reason of undue environmental disturbance such as noise, vibration, smell, noxious emissions or dust;
- No open storage of goods, containers, waste materials or finished products will be allowed if such activity is considered visually unacceptable;
- Advertisements should properly relate to the buildings on which they are displayed and should not adversely impact on the amenity of their surroundings;
- Existing landscape features such as trees and hedgerows should be retained

wherever possible. developers will be required to submit and implement landscaping schemes, including if necessary screening or mounding, as part of any application. in appropriate cases the district planning authority will impose planning conditions or seek to enter into planning agreements in support of this policy.

Protecting existing residential amenity

Policy H16

To protect the existing amenity and character of primarily residential areas, the district planning authority will refuse:

- change to non-residential use where such a change would materially and detrimentally affect the character and amenity of the area by means of appearance, traffic generation, nuisance or safety;
- The loss of open spaces which contribute to the character or appearance of an area and which are important for recreation or amenity purposes;

[...]

Policy T9

Development proposals, including changes of use, will normally be required to provide for the parking and manoeuvring of vehicles, on the application site, in accordance with the parking standards adopted by the district planning authority.

[...]

Core Strategy Focused Review (Adopted December 2012)

Policy FC 1

Presumption in favour of sustainable development

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or Specific policies in that Framework indicate that development should be restricted.

3.7 There are some key local considerations with a particular bearing on this balance, many of which Mid Suffolk shares with neighbouring Babergh District Council with whom we will be working jointly and sharing services in the near future.

For example:

Local circumstances mean that the achievement of environmental sustainability will often be limited in transport terms, due to the dispersed rural nature of the district.

Policy FC 1.1 Mid Suffolk approach to delivering Sustainable Development

In line with policy FC 1, development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan.

Proposals for development must conserve and enhance the local character of the different parts of the district. They should demonstrate how the proposal addresses the context and key issues of the district and contributes to meeting the objectives and the policies of the Mid Suffolk Core Strategy and other relevant documents.

[...]

The Council will facilitate the delivery of integrated sustainable development through a variety of means, including the appropriate use of planning conditions and obligations, planning performance agreements, local and neighbourhood plans and orders, the introduction of CIL and supplementary planning documents.

Babergh and Mid Suffolk Joint Local Plan

JLP

LP09 - Supporting a Prosperous Economy

14.02 The economic base of the Districts comprise a wide range of employment sites and units ranging from the large strategic employment sites to small sites, often occupied with small and medium sized enterprises (SMEs), located across the Districts and sometimes outside settlement boundaries. Many sites have grown organically over time responding to changes in demand and new opportunities. The aim of the Plan is to maintain a suitable diversity of employment sites to meet current and future economic needs in a sustainable way.

14.03 The Plan also provides flexibility to support small scale employment use and flexible working practices. The predominantly rural nature of the Districts means that there are many small scale businesses, often within agricultural complexes and also within residential curtilages in both the towns and the wider countryside. This is an important component of the Districts' economic sustainability and diversity. The purpose of the policy is to provide a consistent framework to enable such uses to be regularised where it is considered necessary and appropriate to do so:

1. Proposals for employment use must: a. Be sensitive to the surroundings, including any residential and other amenity, landscape and heritage assets;

SP03 - The sustainable location of new development

SP05 - Employment Land

In order to support and encourage sustainable economic growth

(i) the designated strategic employment sites (as identified in Table 6 and on the Policies Map) shall be protected and employment uses within them will be supported in principle; and

(ii) other land used for employment purposes shall be protected for ongoing employment use, unless such use is convincingly demonstrated to be unviable.

SP09 –Enhancement and Management of the Environment

1) The Councils will require development to support and contribute to the conservation, enhancement and management of the natural and local environment and networks of green infrastructure, including: landscape, biodiversity, geodiversity and the historic environment and historic landscapes. [...]

3) All development that would have an impact on a Protected Habitats Site, will be required to embed mitigation measures to avoid adverse effect on integrity.

4) Through biodiversity net gain, all development will be required to protect and enhance biodiversity ensuring the measures are resilient to climate change.

Policy LP16 - Biodiversity & Geodiversity

1) All development must follow the biodiversity mitigation hierarchy.

2) Development must:

a) Protect designated and, where known, potentially designated sites. Proposed development which is likely to have an adverse impact upon designated and potentially designated sites, or that will result in the loss or deterioration of irreplaceable biodiversity or geological features or habitats (such as ancient woodland and veteran/ ancient trees) will not be supported;

b) Protect and improve sites of geological value and in particular geological sites of international, national and local significance;

c) Conserve, restore and contribute to the enhancement of biodiversity and geological conservation interests including Priority habitats and species. Enhancement for biodiversity should be commensurate with the scale of development;

d) Where possible plan positively for the creation, protection, enhancement and management of local networks of biodiversity with wildlife corridors that connect areas. This could include links to existing green infrastructure networks and areas identified by local partnerships for habitat restoration or creation so that these ecological networks will be more resilient to current and future pressures;

e) Identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase, for biodiversity. The Councils will seek appropriate resources

from developers for monitoring of biodiversity net gain from developments. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support the delivery of net gain in biodiversity off-site; and

f) Apply measures to assist with the recovery of species listed in S41 of the NERC Act 2006.

3) Development which would have an adverse impact on species protected by legislation²⁶, or subsequent legislation, will not be permitted unless there is no alternative and the LPA is satisfied that suitable measures have been taken to:

- a. Reduce disturbance to a minimum;
- b. Maintain the population identified on site; and
- c. Provide adequate alternative habitats to sustain at least the current levels of population.

4) Where appropriate, the LPA will use planning obligations and/or planning conditions to achieve appropriate mitigation and/or compensatory measures and to ensure that any potential harm is kept to a minimum.

Relevant Legislation & Guidance

Town and Country Planning Act 1990

Part VII Enforcement

Introductory

171B Time limits

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

Certificate of lawful use or development

191 Certificate of lawfulness of existing use or development.

- (1) If any person wishes to ascertain whether—
 - (a) any existing use of buildings or other land is lawful;

-
- (b) any operations which have been carried out in, on, over or under land are lawful; or
 - (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

193 Certificates under sections 191 and 192: supplementary provisions.

(4) A certificate under either of those sections may be issued—

- (a) for the whole or part of the land specified in the application; and
- (b) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them.

194 Offences

(1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 191 or 192—

- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
- (b) with intent to deceive, uses any document which is false or misleading in a material

particular; or

(c) with intent to deceive, withholds any material information, he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(9) The local planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.

(13) Where an application is refused, in whole or in part (including a case in which the authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must state clearly and precisely the authority's full reasons for their decision and include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Secretary of State under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application) **F3**.

Town and Country Planning (Development Management Procedure) (England) Order 2015

Part 8 Miscellaneous

Certificate of lawful use or development

39.—(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development) **F1** must be made on a form published by the Secretary of State (or on a form substantially to the same effect) and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

(2) An application to which paragraph (1) applies must be accompanied by—

- (a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of North;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

(4) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application must indicate to which part of the land each such use, operation or matter relates.

National Planning Practice Guidance

Lawful development certificates

How is lawfulness defined in relation to lawful development certificates?

The statutory framework covering “lawfulness” for lawful development certificates is set out in [section 191\(2\) of the Act](#). In summary, lawful development is development against which no enforcement action may be taken and where [no enforcement notice is in force](#), or, for which [planning permission is not required](#).

An enforcement notice is not in force where an enforcement appeal is outstanding or an appeal has been upheld and the decision has been remitted to the Secretary of State for redetermination, but that redetermination is still outstanding.

Paragraph: 003 Reference ID: 17c-003-20140306 Revision date: 06 03 2014

What information must accompany an application for a lawful development certificate?

An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced.

Paragraph: 005 Reference ID: 17c-005-20140306 Revision date: 06 03 2014

Who is responsible for providing sufficient information to support an application?

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence

itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

Paragraph: 006 Reference ID: 17c-006-20140306 Revision date: 06 03 2014

Does a local planning authority need to consult on an application for a lawful development certificate?

There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

Paragraph: 008 Reference ID: 17c-008-20140306 Revision date: 06 03 2014

How is an application for a lawful development certificate determined?

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under [section 192](#) a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

A local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether. It is, however, advisable to seek the applicant's agreement to any

amendment before issuing the certificate. A refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.

Paragraph: 009 Reference ID: 17c-009-20140306 Revision date: 06 03 2014

Commentary

Lawful Certificate of Development

This part of the application excludes the regularisation of the existing workshop use and the access to the highway, which are lawful pursuant to application 24/02 (See Annex A).

Photographic evidence:

The following photographs were taken from August 2007 until July 2023. It demonstrates that at some point between August 2007 and August 2009, A L E started to use the application to park vehicles, that hard standing has been



Fig.6 : Dated 03.08.2007 - Google Earth aerial photograph showing that the application was an agricultural field.



Fig.7: Dated August 2009 - Google Street view of the appliciaotn site entrance veering to the west showing sign of hardstanding and vehicle parked.



Fig.8: Dated April 2010 - Google Street view of the entrance veering to the west showing sign of hardstanding.



Fig.9: Dated 14.04.2015 - Google Earth aerial photograph showing that the application was used for the parking of vehicles and hard standing has been laid to facilitate the use of site for MOT testing and general vehicle repairs.

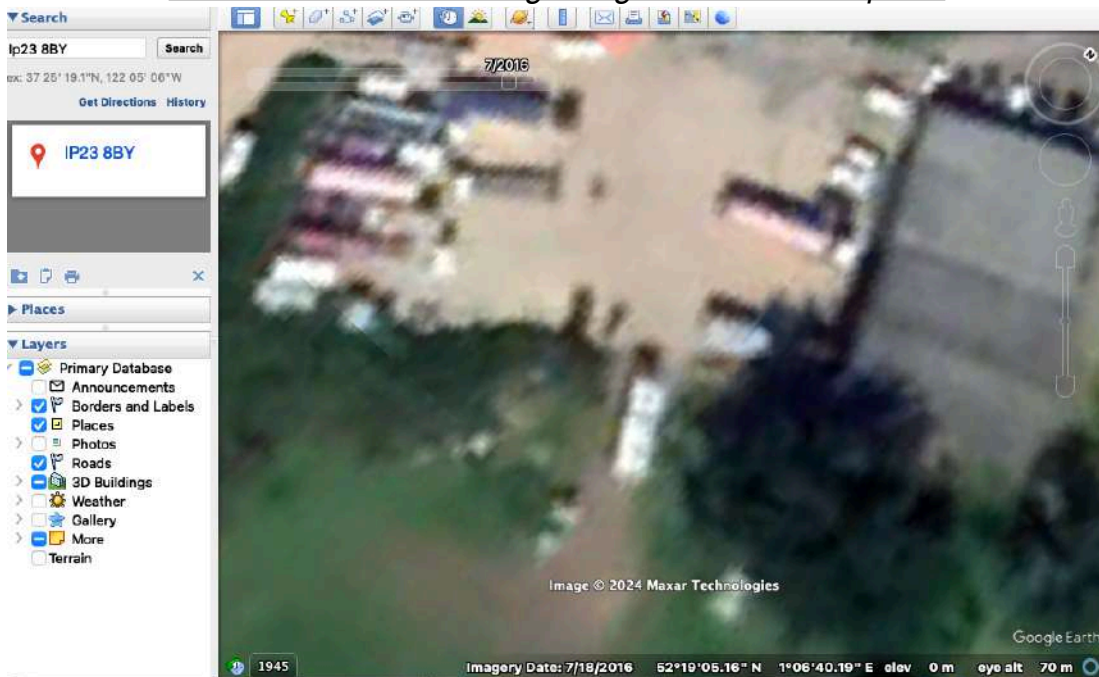


Fig.10: Dated 18.07.2016 - Google Earth aerial photograph showing that the application was used for the parking of vehicles and hard standing has been laid to facilitate the use of site for MOT testing and general vehicle repairs.



Fig.11: Dated 11.05.2017 - Google Earth aerial photograph showing hard standing laid and the site being used for the storage of vehicle to be serviced or repaired in the workshope. The pond is filled.

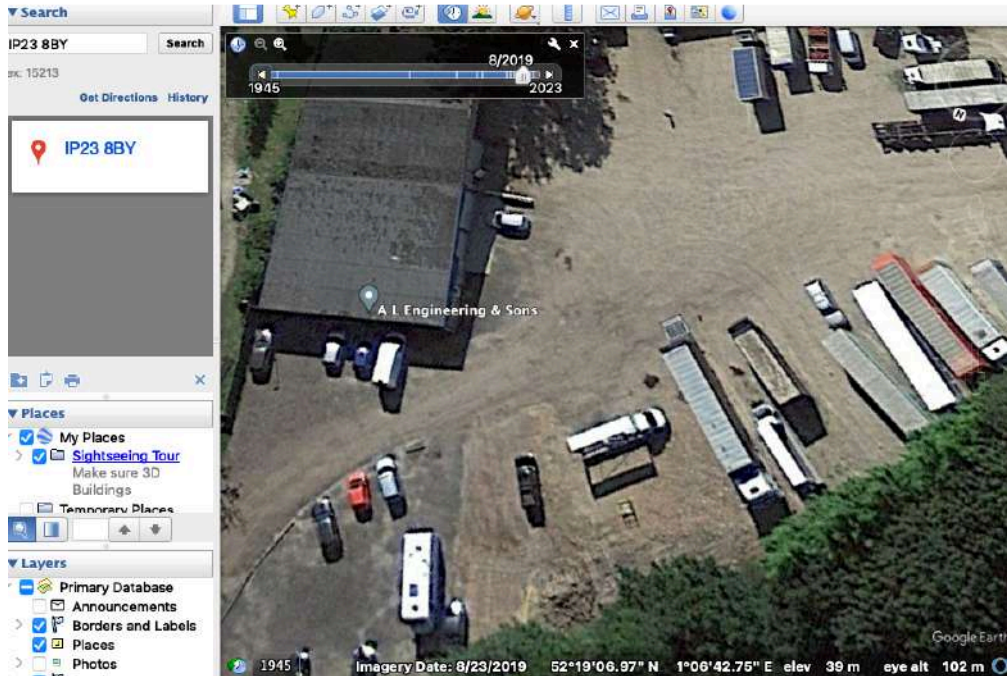


Fig.12: Dated 23.08.2019 - Google Earth showing hard standing in place, and the site being used for the storage of vehicle to be serviced/repaired in the workshop.

The pond is filled.

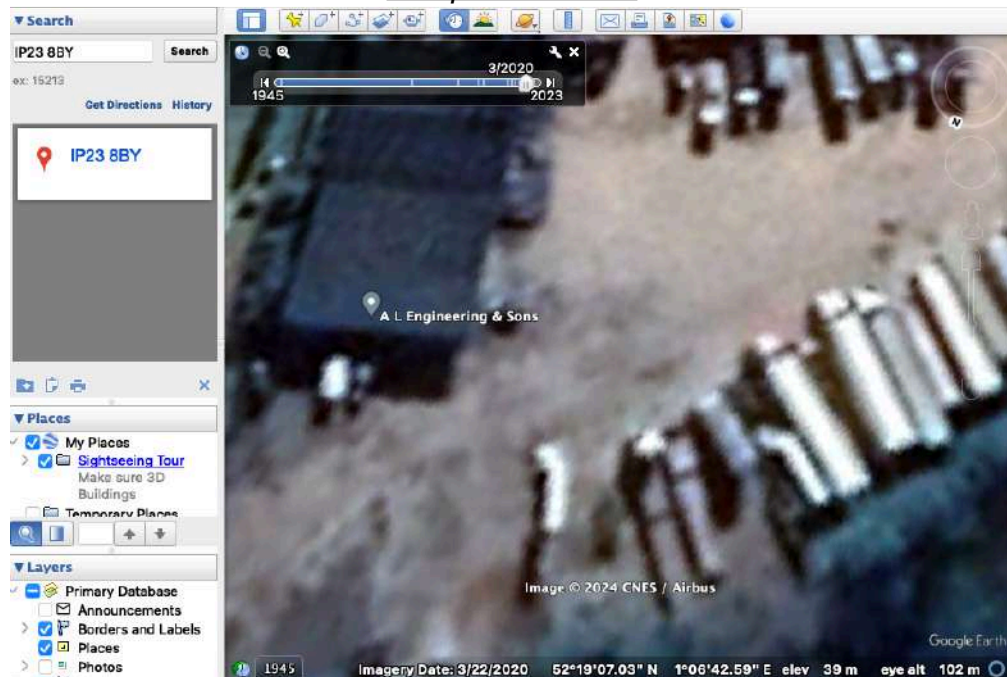


Fig.13: Dated 22.03.2020 - Google Earth aerial photograph showing hard standing in place, and the site being used for the storage of vehicle to be serviced or repaired in the workshop.

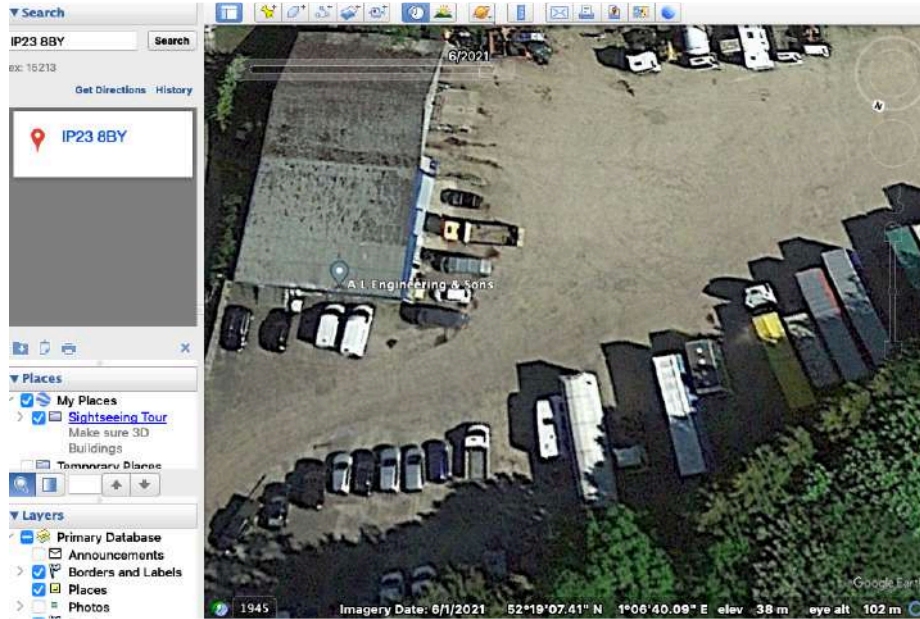


Fig.14: Dated 01.06.2021 - Google Earth aerial photograph showing hard standing in place, and the site being used for the storage of vehicle to be serviced or repaired in the workshop.

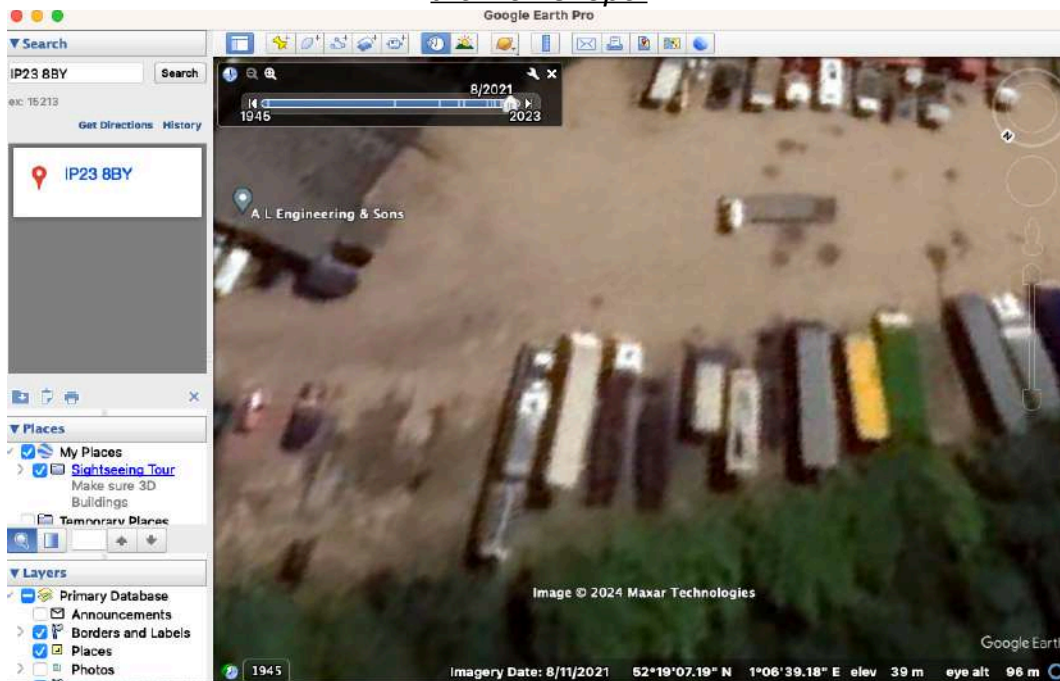


Fig.15: Dated 11.08.2021 - Google Earth aerial photograph showing hard standing in place, and the site being used for the storage of vehicle to be serviced or repaired in the workshop.

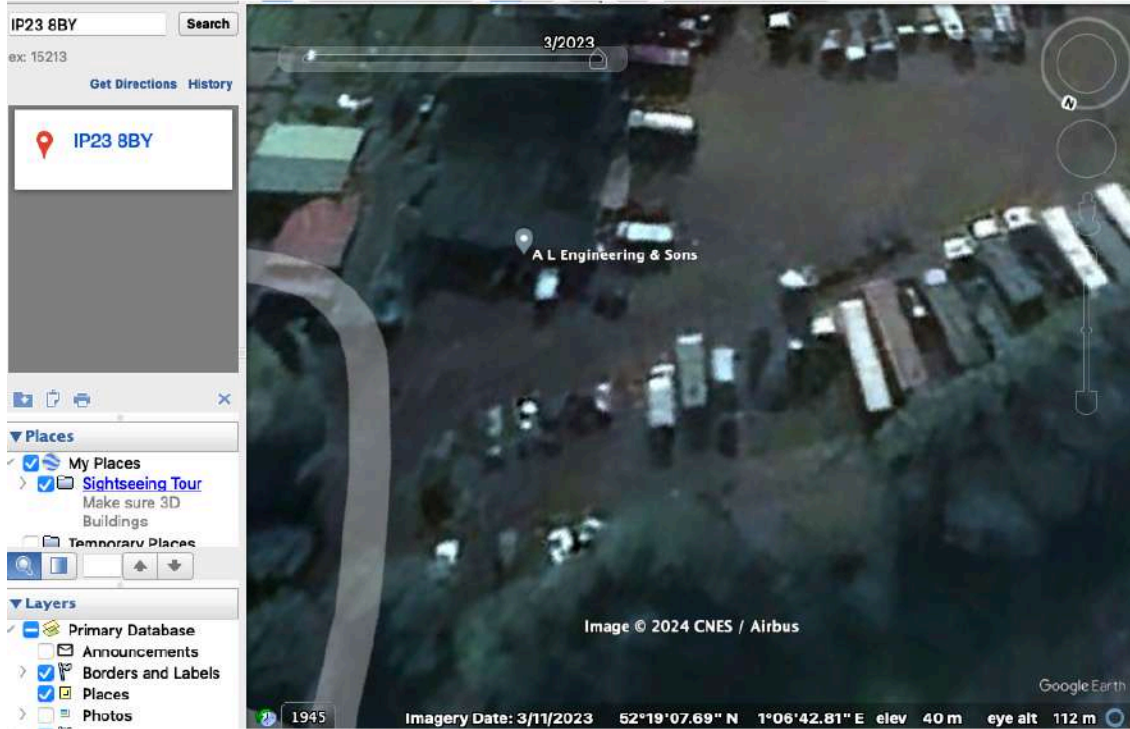


Fig.16: Dated 11.03.2023 - Google Earth aerial photograph showing hard standing in place, and the site being used for the storage of vehicle to be serviced or repaired in the workshop.



Fig.17: Dated June 2023 - Google Street View of the entrance to A L E over 10 years later with the blue workshop still visible through the dense treed boundary.



Fig.18: Dated June 2023 - Google Street View of the entrance to A L E over 10 years later with the blue workshop still visible through the dense treed boundary.

The aerial photographic evidence extracted from Google Earth and Street View shows that over the past 10 years, the application site has been used to facilitate A L E business. It also showed that the pond and the laying of the hard standing occurred at least 4 years ago.

Affidavit

The submitted Annexe B is a statutory declaration witnessed by a solicitor.

The affidavit provided is from the applicant and his on who is the Workshop manager of A L E. The affidavit corroborates that the parcel of land, subject to this Certificate of Lawfulness application has been used for the facilitation of the existing lawful business run from the existing workshop for over 10 years.

The affidavit also corroborates the photographic evidence submitted in the previous section of this statement. It confirms that although the application site subject to application is technically of the agricultural land class use in planning terms, it has not been used as such for at least 10 years, but instead, as land to facilitate A L E business to park vehicles whilst they were repaired or serviced in the workshop pursuant to application 24/02. During this period, development occurred, such as a pond was filled and hard standing was laid over 4 years ago.

As such, pursuant to Part VII section 171B and section 191 of the Town & Country

Planning Act 1990, the application site, its use and the development described above are now lawful due to the passage of time, and a Lawful Certificate of Development ought to be issued to regularise them.

Principle of development for the erection of an MOT workshop

Saved policy E10 of the Mid Suffolk Local Plan 1998 details that “commercial development will not be permitted in the countryside unless an overriding need to be located away from towns and villages can be demonstrated”.

The 2012 Core Strategy Focused Review acknowledges in paragraph 3.7 that “local circumstances mean that the achievement of environmental sustainability will often be limited in transport terms due to the dispersed rural nature of the district”.

The applicant has chosen the application site for the following reasons:

- The site is already developed, and the proposal is to complement an existing industrial activity;
- It is conveniently located on the Suffolk Recommended Lorry Route Network;
- It is within the vicinity of the existing workshop, from which ALE operates its business. This means it would be highly convenient for vehicles to circulate between workshops;
- The number of vehicle movements will decrease because there will no longer be a need to take them off-site to be MOTed. Therefore, there would not be an intensification in vehicular movements associated with the local business’s operation.
- It will be shielded behind a mature treed hedge.

These are considered to provide compelling support, as required by Policy E10, for the need for this type of activity to be located away from a town or village.

Where such a locational need can be demonstrated, as above, policy E10 also requires that a number of additional criteria be met. The development in accordance with each of these criteria is set out below:

-The impact of the development on the surrounding countryside, including its landscape and wildlife features;

The application seeks permission to erect a workshop on an already-developed site.

Moreover, the site is in a discreet rural location and is well-screened behind a mature hedge. This renders the site virtually invisible from the highway. The applicant is willing to plant further screening hedges should the council deem it necessary.

In terms of the activity proposed, this is very similar in form, character and impact to the ALE core business.

The reduction of vehicle movements would amount to betterment, and if the new service generated extra trade, on balance, this is unlikely to amount to an intensification on the site.

-The prospect of pollution including the effect on nearby watercourses and groundwater sources;

The proposal will not include any industrial process and will use the existing waste management plan.

Moreover, the application site is in Flood Zone 1, which has the lowest probability of flooding. As such, the development is highly unlikely to have any detrimental effect on nearby watercourses or groundwater sources.

-The amount of traffic generated and the likelihood of unacceptable traffic movements, particularly lorries, on non-principal roads;

As previously detailed, the proposal on balance will not amount to any increase in vehicular movements, even if the trade volume increases.

-The loss of high quality agricultural land;

The proposal will be built on an existing industrial site and will not amount to the loss of high-quality agricultural land. On the contrary, it will make the best use of an existing industrial site.

-The contribution to the rural economy;

The proposal would enable this particular rural business to "invest and adapt" as

required by paragraphs 81, 84 (a) and 85 of the NPPF. This is echoed in the JLP in Policy LP09, which articulates that the “*plan also provides flexibility to support small scale employment use*”. It is undeniable that thriving local businesses positively impact the local economy.

-The employment opportunities created for nearby communities.

The business is medium-sized and is already employing 11 people.

The proposed MOT workshop will create 2 to 3 additional employments. Thus, the proposal attracts the support of Policy SP05 of the JLP, which encourages sustainable economic growth, such as the subject of this application.

Policy E12 indicates the principles for the extension's location, design and layout for existing industrial and commercial development. The proposal complies with all the requirements and attracts the support of the policy for the following reasons:

- The building is a purpose-built building of high standards;
- Its location and orientation have been carefully thought out so that the entire site still works efficiently;
- It does not require a new access;
- It will not generate any more traffic;
- The site retains enough parking amenities for all it needs;
- It will not generate any open storage;
- No tree or hedge will be removed.

The following section will consider the proposal's impact on the area's character and appearance.

Impact on the character and appearance of the area

Impact on Listed Building The Laurels:

Approximately 100 m west of the application site is The Laurels, a grade II listed Building (see page 9).

The Farmhouse and its historic courtyard are separated from the application site by a heavily treed land parcel. The application site is separated from the application site by the A140, a groundwater site and another dwelling.

The distance and intervening vegetation prevent any inter-visibility between the heritage asset and the application site.

Moreover, there would be no increase in vehicular movements and no introduction of any other impacts (such as noises or smells) that would likely affect the setting or experience of the listed building.

With regard to the impact of the proposal on the setting of the listed building, the character and significance of this asset would not be duly unaffected by the development.

Therefore, the proposal would comply with Policy HB1, which explains that the “*District Planning Authority places a high priority on protecting the character and appearance of all buildings of architectural or historical interest. Particular attention will be given to protecting the settings of listed Building.*”

Impact on the character and appearance of the area:

The application entails no removal of any of the existing hedges¹. The workshop will be built on the existing industrial site associated with A L E, partly used for parking and comprising permeable hardcore.

¹ As stated previously, the applicant is willing to accept a planning condition which would require enhancement of the site’s existing planting

The workshop is of similar scale and appearance and adopts a discreet position within the rural area.

No external lights are being proposed; therefore, they will not contribute to night light pollution.

The workshop's impact would appear visually similar to the existing development. The chosen cladding colour will be identical to the existing workshop. So, the proposal will be perceived harmoniously within its context.

It is also worth noting that the nature of the surrounding working rural landscape has changed in modern times, with the redevelopment of various formerly productive farmsteads to uses not necessarily bound to a rural area.

For these reasons, it is not considered that the proposed change of use would impact negatively on the locality, its character or appearance in accordance with Policy H16 CL5 and CL8.

Impact on residential amenity

The proposal consists of an extra workshop due west to an existing one. The original workshop is closer to the nearest residential property where the applicants reside.

The activity generated by the MOT workshop will not cause an overall addition to the existing ambient noise. MOT testing does not require unduly noisy equipment, and the associated vehicular movements will not be increased.

A noise assessment is submitted under Annexe C. Its conclusion and recommendation in paragraphs 6.3 and 6.4 will be implemented in full.

The application site is in a rural location, screened from all nearby residences by hedgerows and tree planting.

The main amenity impact would be on the applicants' domestic property, which would be wholly beneficial.

Overall, the proposal will not have a detrimental impact on residential amenities and complies with Policy H16.

The impact on traffic and highways will be discussed in the next section.

Impact on highways, traffic & parking

As mentioned above, the proposal will reduce vehicular movements as the current situation is that vehicles have to be taken elsewhere to be MOTed. On balance, the trade increase will not amount to more movements than previously generated.

No intensification of traffic would result from the proposal along the Recommended Lorry Route Suffolk, which serves the application site.

The site is large enough to accommodate its existing and future parking needs and for all vehicles to manoeuvre safely as required by policies T9 and E12.

As such, the LPA can be satisfied that the development will not cause any detriment to the highway safety and the local traffic.

FRA

Although the application site is in Zone Flood 1, it has been identified that there is a low to high risk of surface flooding, and a Flood Risk Assessment has been commissioned and submitted under Appendix D.

5. CONCLUSIONS

- The site comprises less-vulnerable uses.
- The site is located within the fluvial Flood Zone 1.
- There is a low groundwater flood risk and low risk from reservoirs.
- There is a very low to high surface water flood risk across the site.
- It is generally accepted that the low risk flood event (i.e. between 1 in 1000 years and 1 in 100 years) on the Agency's map is used as a substitute for the climate change 1 in 100 year event to provide a worst-case scenario. There is no policy requirement to apply climate change onto the 1 in 1000 year event, as climate change is applied up to the 1 in 100 year event as confirmed at <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances#when-to-use-climate-change-allowance>.
- A more detailed analysis of the flood risk has been undertaken using the Data.gov.uk GIS data. It has been established that the low risk (1000yr/100yr plus climate change) surface water flood level across the area intended for the workshop is up to 38.15m AOD.
- The ground floor of the workshop will be set similar to existing ground levels and at 37.90m AOD and could therefore be affected by a flood depth of up to 0.25m during the worst-case low risk event.
- A *Water Entry Strategy*, as discussed further in the aforementioned DEFRA/EA document, can be adopted above the ground floor level up to the depth of 0.25m in order to protect property.
- A warning and evacuation strategy has been developed within this assessment.

Fig.X: extract of the FRA conclusion - See Annexe D.

Consequently, the applicant will implement the Water Entry Strategy as well as the warning and evacuation strategy detailed in this DEFRA/EA document in order for the proposal not to aggravate the flooding risk inherent to this site.

BNG

Biodiversity net gain (BNG) is an approach to the development and management of land that aims to leave biodiversity in a measurably better state than it was before development occurred. It will ensure habitats for wildlife are retained, enhanced and created through the development process.

Under the Environment Act 2021, all planning permissions, with a few exceptions, are required to deliver a minimum of 10% increase in the biodiversity net gain delivered compared to the pre-development baseline. BNG will be measured using Defra's biodiversity metric, and all net gains will need to be secured and monitored for at least 30 years.

These commitments are further developed in Policy LP16 of the new Joint Local Plan and in the Biodiversity Net Gain Interim Planning Guidance Note for Suffolk.

Such BNG report was produced (see submitted Annexe E1-3). Its findings and recommendations will be implemented in full.

Conclusion

On the basis of the supplied evidence and balance of all probability, the use of the application site to facilitate the repair of vehicles and MOT testing by A L E has been established for in excess of 10 years and not in a covert manner. It has also been demonstrated that the pond and the laying of hard standing occurred over 4 years ago.

The National Planning Practice Guidance offer advice that “In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability” (Paragraph: 006 Reference ID: 17c006-20140306 Revision date: 06 03 2014).

As such, pursuant to Part VII section 171B and section 191 of the Town & Country Planning Act 1990, it is Planning Direct’s professional opinion that the application site and its use is now lawful due to the passage of time, and a Lawful Certificate of Development ought to be issued.

The proposed workshop will provide a convenient MOT centre to complement a long-established commercial activity.

This development will support the distribution industry, which is well-established in this part of the county and is ideally located on the Recommended Lorry Route Network.

As evidenced throughout this document, no unacceptable harm would be caused to the area's character, appearance or functioning, including its highways and heritage assets.

Policy FC1 of the Core Strategy Focused review (2012) states that development should be approved if it “improves the economic, social and environmental conditions of the area”. It is firmly considered that the development would achieve this whilst avoiding any material harmful impacts.

In these respects, the development demonstrates due accordance with all relevant local and national policies, and permission is consequently due.

The applicants expect the LPA to bring any potential issues arising with the proposal to the attention of Planning Direct as soon as possible so that clarifications can be provided and/or solutions agreed upon where appropriate.