

REPORT NO: 55/2015

DEVELOPMENT CONTROL AND LICENSING COMMITTEE

3RD MARCH 2015

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
DEVELOPMENT CONTROL AND LICENSING COMMITTEE**

**REPORT OF THE DIRECTOR FOR PLACES
(ENVIRONMENT, PLANNING AND TRANSPORT)**

Rutland County Council

Development Control & Licensing Committee – 3rd March 2015

Index of Committee Items

Item	Application No	Applicant, Location & Description	Recommendation	Page
1	2013/0470/FUL	Mr R Shoon The Caravan, Newstead Road, Belmesthorpe Construction of log cabin to form agricultural dwelling	Refusal	5
2	2014/0091/FUL	Mr Andrejs Nikiforous Mill Garage, 26 Main Street, Caldecott Change of Use from commercial garage (car sales & repair) to a mixed use of commercial garage (car sales & repair) and hand car wash facility, incorporating new hardsurfacing and protective canopy at rear of the premises.	Approval	96
	Appeals Report			101



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 Date of plot: 18/02/2015



Rutland County Council

Catmose,
 Oakham,
 Rutland
 LE15 6HP

Application:	2013/0470/FUL	ITEM 1	
Proposal:	Construction of log cabin to form temporary agricultural dwelling		
Address:	The Caravan, Newstead Road, Belmesthorpe		
Applicant:	Mr R Shoon	Parish	BELMESTHORPE
Agent:	William Allwood,	Ward	Ryhall & Casterton
Reason for presenting to Committee:	Appeal History		
Date of Committee:	3 March 2015		

This application was deferred without debate at the meeting on 3 February 2015 following the late submission of information from the applicant. The contents of that submission have been summarised in this report.

EXECUTIVE SUMMARY

The existing temporary mobile home was allowed on appeal. The proposed agricultural dwelling is located in open countryside and is not considered to fulfil the necessary policy criteria for such proposals. The advice from the Council's Agricultural Consultant is that the unit is not full time and does not have audited accounts to demonstrate income levels or its ability to support a full time worker and the cost of the house.

RECOMMENDATION

REFUSAL, for the following reasons:

1. There is insufficient supporting justification, in terms of a permanent functional requirement and the ability of the unit to sustain the cost of a new rural dwelling in this location. As such the erection of a new dwelling on this site would result in an unwarranted dwelling in a prominent location in open countryside which would be contrary to Policy CS4 of the Rutland Core Strategy (2011), Policy SP6 and Appendix 1 of the Submission Site Allocations and Polices DPD (2013) and the advice in Para 55 of the National Planning Policy Framework.

Site & Surroundings

1. The site is located on the east side of Newstead Lane and was previously part of a larger agricultural holding that has been subdivided.
2. The site is set well back off the road and is accessed by a shared track which also serves Green Lane Farm on the adjoining land. The overall main site is approximately 8.5ha in area. The applicant also now owns a further 3.3ha of land nearer Newstead Lane and 1.56ha of further land and buildings on the opposite side of Newstead Lane but this latter area is apparently an equestrian enterprise and not connected with agriculture - see **APPENDIX 1**. The site is outside the Planned Limit to Development for Belmesthorpe, as defined in the Development Plan. The land currently comprises a mobile home with timber extensions, a shed built under permitted development rights and several mobile shelters. The mobile home was allowed on appeal in June 2010 for 3 years. That permission expired in June 2013. The occupation of the currently unauthorised mobile would become lawful in June 2017 if not addressed by its removal or the granting of a new permission.

3. A public footpath runs across the centre of the main site.

Proposal

4. The proposal is for a second temporary period of 3 years for a log cabin, which would replace the mobile home (caravan) to enable the enterprise to grow further. The original submission was for a permanent dwelling but the current circumstances meant that this would not be supported and the application was modified.

Relevant Planning History

Application	Description	Decision
AGRP/2009/0293	Ag Prior Notification for storage shed	Approved June 2009
ENF/2009/0010 - Enforcement Notice	Removal of unauthorised mobile home and metal containers	Appeal Dismissed April 2010
2009/1262	Access, siting of 2 containers and temporary siting of mobile home.	Refused – Allowed on appeal June 2010.

Planning Guidance and Policy

National Planning Policy Framework

Para 55 Rural Dwellings:

‘Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (inter alia):

- The essential need for a rural worker to live permanently at or near their place of work in the countryside.’

The Rutland Core Strategy

CS4 – Location of Development

Development in the Countryside will be strictly limited to that which has an essential need to be located in the countryside and will be restricted to particular types of development to support the rural economy and meet affordable housing needs.

CS19 - Design

Site Allocations and Policies DPD (2014)

Policy SP6(2) – Housing in the Countryside (to meet essential operational needs).

Policy SP15 – Design & Amenity

Appendix 1 – Agricultural, Forestry and Other Occupational Dwellings.

Extract from Appendix 1 (similar advice previously contained in Appendix A to PPS 7) is attached at **APPENDIX 2**.

Consultations

5. Belmesthorpe Parish Council
No objections to temporary planning permission in this instance but note that this site is outside the boundaries of permitted development.

6. RCC Highways (Highway Safety)
No objection subject to conditions

Note to Appt: You will need to obtain a Highways Licence from Rutland County Council Highways department before any work can commence on the new access. This will require that the access is built to a standard specification and that contractors are sufficiently insured against public liability whilst operating in the highway.

7. RCC Highways (Footpaths Officer)
The proposed development is unlikely to have any significant effect on the public footpath (ref E174) running along the sites western boundary. In recent years the footpath has been completely enclosed with post and wire fences on either side. Although enclosing paths that previously crossed open fields is not something we generally like to see and requires us to undertake additional mowing (of paths that were previously grazed) the party responsible seems to have considered walkers needs. The path is nice and wide (approx 3 metres) and the grass surface is being kept short (either mown or grazed) all very encouraging. I might question how accurately the enclosed path follows the legal line of E174 but as it is being maintained in such good order this could be seen as a little pedantic. Usual planning advice applies. Please ensure that: There is no diminution in the width of the right of way available for use by members of the public. No building materials are stored on the right of way. No damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way. Vehicle movements are arranged so as not to interfere with the public's use of the way. No additional barriers (e.g. gates) are placed across the right of way, of either a temporary or permanent nature. No wildlife fencing or other ecological protection features associated with wildlife mitigation measures are placed across the right of way or allowed to interfere with the right of way. The safety of members of the public is ensured at all times.

8. National Grid
National Grid has identified that it has apparatus in the vicinity of (the site) which may be affected by the activities specified. Due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure our apparatus is not affected by any of the proposed works.

9. Sanham Agricultural Planning

See comments and agents responses together with other financial information in exempt papers at **APPENDIX 3**. This information is considered to be exempt under the provisions of Schedule 12A of the Local Government Act 1972, and as the responses from the consultant are chronologically linked with the exempt information, they have been included in that Appendix too.

Neighbour Representations

10. None

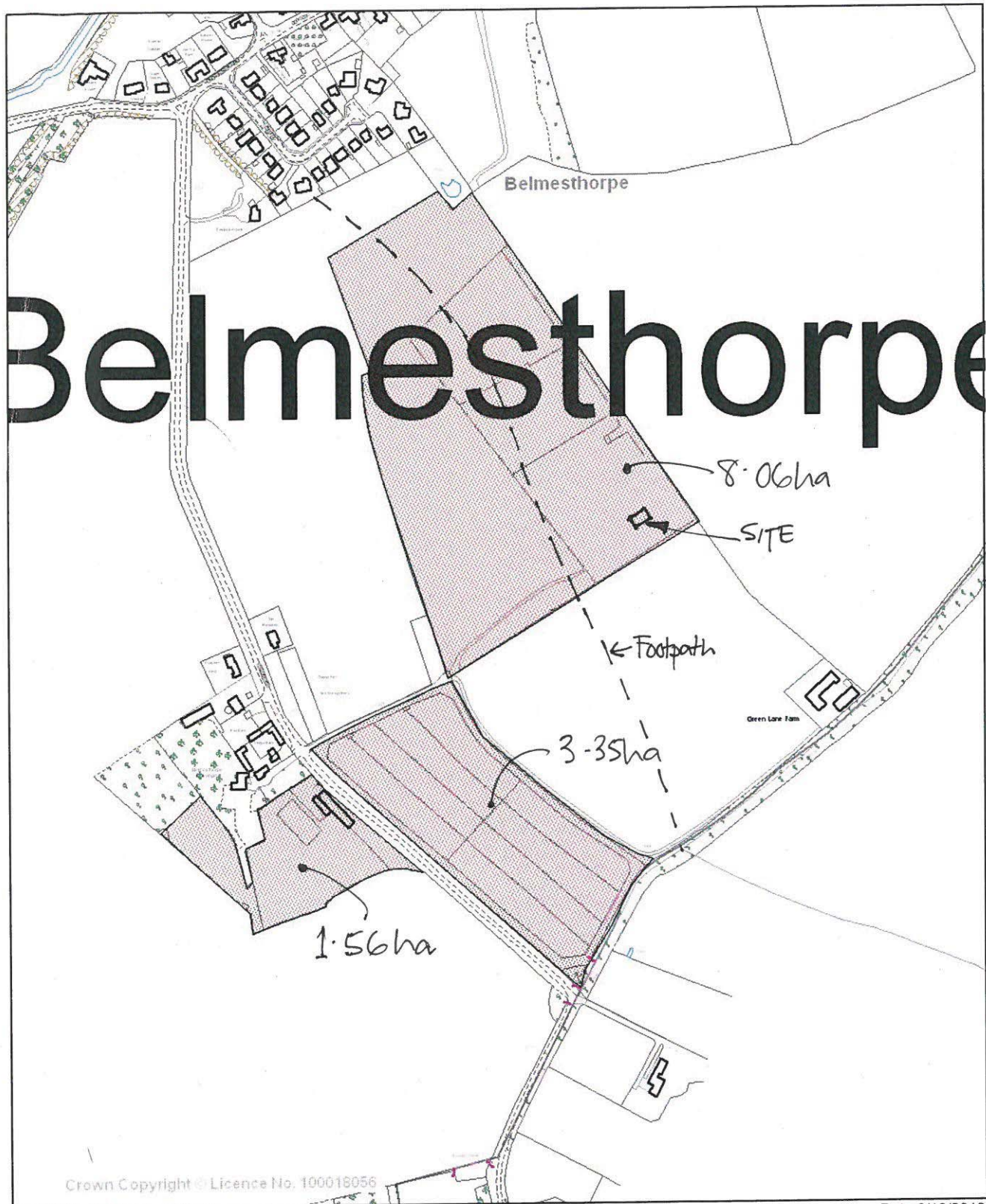
Planning Assessment

11. The main issue is whether the farm can justify an exception to the normal policy of not granting a successive 3 year temporary permission.
12. The normal tests are set out in Para 55 of the NPPF and Appendix 1 to the Site Allocations and Policies DPD , the latter of which is similar to the previous advice in Annexe A to the former PPS 7.
13. The current mobile home was allowed on a planning appeal in 2010, an Enforcement appeal having been dismissed where the Inspector found that there was no need for a dwelling. For reasons unknown, the applicant has not begun to establish the business until 2013 by which time his temporary permission had expired and he has not built up the business as the temporary permission expected him to. There is already a mobile home (caravan) on site which in theory could serve to provide the accommodation for a further 3 years, however, the application was originally submitted for a permanent permission for the new log cabin and the applicant has requested that this be allowed for a further 3 year temporary period. Members will see from the Appendices that information has been exchanged over a period of time to clarify the justification for this proposal.
14. Whilst the advice in the SAPDPD Appendix 1 (and the former PPS 7) is that a second temporary permission should not be forthcoming, members will recall granting permission for a further temporary period at the free range egg unit on Stocken Hall Road in Stretton last year. That was on an established holding which had been profitable and is considered by the Consultant to be different circumstances.
15. The applicant had a 3 year temporary permission within which to establish his business and prove a need for a permanent occupation of the site. This was not achieved for reasons set out in the correspondence.
16. In addition to the husbandry of the alpaca's, preparation and processing of fleeces to produce garments and goods is also carried out on site.
17. The applicant has submitted a further supporting statement following the publication of the report on the agenda for 3 February. As this statement was so extensive and received so late the application was deferred at the previous meeting so that it could be assessed. He points out the history of the site and how he has continued to build up the business since the purchase of the land in 2007. He specifically makes the following points:
 - For the last five and a half years he has run his own very successful British Electronic Manufacturing Company in Barnack.
 - During 2007 he purchased 20.23 acres of land in Belmesthorpe, Rutland. He called it Ridgeview Farm and began by planting around 1000 trees (saplings).
 - His aim is to breed top quality Alpacas, and use their fibre to produce handmade garments.
 - When his herd is big enough, he intends to sell Alpacas. Last December he sold a male Alpaca for a 5 figure sum.

He considers that the report is very biased and added that he would like to make the following (relevant) points:

- Ridgeview Farm Limited (a registered company) breeding Alpacas and making garments from the fibre. Currently 29 Alpacas strong with 9 pregnant females about 6 months pregnant.
 - The additional 12 acres purchased is all part of Ridgeview Farm Limited, but until there are enough Alpacas to fill the extra land, it will run as an equestrian enterprise to generate income.
 - The 20 acres of land currently comprises a 1970 caravan with an animal field shelter for living accommodation. A 60 x 30 ft. barn which was built under permitted development. There are 8 mobile field shelters used for animal shelter, workshop and storage of food etc.
 - There is a public footpath running through the site. He has asked several people to keep their dogs on leads as he has lost a couple animals due to out of control dogs in the fields chasing pregnant Alpacas. People have been observed trespassing.
 - This footpath previously went around the headland as the field was arable. It has been restored to its proper line.
 - It was discussed at the Appeal that it would take a minimum of three years to establish the business for the following reasons:
 - (A) When the land was purchased it was a stubble field. We have started from the ground up, planting trees, creating paddocks, fencing the footpath and creating a safe environment for both our animals and the local public.
 - (B) It would take at least three years for the herd to grow sufficiently in order to start selling animals. (That was in 2010)
 - (C) The country is in the middle of a severe recession so starting a new enterprise is a bit slow at present. However the third quarters accounting figure of 2014/15 shows a profit which is more than the minimum agricultural wage.
 - He denies living at an address in Peterborough and states that at no point since spring 2009 has he or his wife resided anywhere except at Ridgeview Farm,
 - He leaves the farm at 0830/0900 to go to his office. At 1100-1130 he returns to the farm to check the animals. After lunch he returns to the office for a couple of hours and is back home for 1530-1600. During birthing times he has employees who can cover some of his business duties.
 - He would like to extend an invitation to the committee members to visit Ridge View Farm before making your decision.
 - He would like to train/teach up and coming generations skills which will eventually bring industry back to this country. In order to get out of recession, the Government tells us that new rural business is to be encouraged.
 - He feels that there have been some biased decisions made with regard to his site and the one next door which originally formed part of the larger same field.
18. Your Consultants advice is that there is no proven need to a further period of 3 years and that permission should be refused, reflected in the recommendation above. This is due to the fact that the opportunity afforded by the Inspector in the 2010 appeal has not been taken to establish the business. The Inspector and your Consultant accept a functional need is established although as it is still only 'part time' it is not considered that it justifies a further permission within which the business can be established.

19. In view of the previous appeal decision, and the significant amount of information that has been submitted to justify the proposal, members need to consider carefully whether a further temporary permission would be appropriate to see if the business can establish once and for all into a full time, self sustaining unit whereby a permanent permission could be granted in due course as there would clearly be no prospect of a 3rd temporary permission.
20. If members resolve to refuse permission, the issue of enforcement for the now unauthorised temporary dwelling on site will need to be considered in a separate future report which will need to consider Human Rights legislation as the removal would potentially mean making the applicants homeless.



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Date 6/12/2013

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Extract from Site Allocations and Policies DPD 2014 – Appendix 1

Permanent Agricultural Dwellings

3. New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- i) there is a clearly established existing functional need (see paragraph 4 below);
- ii) the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph 8 below);
- iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

4. A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- i) in case animals or agricultural processes require essential care at short notice;
- ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.)

Temporary agricultural dwellings


12. If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need (see paragraph 4 of this Appendix);
- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.

13. If permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraph 3 above are met. The Council will make clear the period for which the temporary permission is granted, the fact that the temporary dwelling will have to be removed, and the requirements that will have to be met if a permanent permission is to be granted. The Council will not normally grant successive extensions to a temporary permission over a period of more than three years, nor normally give temporary permissions in locations where they would not permit a permanent dwelling.



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Date of plot: 19/02/2015



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

96

Application:	2014/0091/FUL	ITEM 2	
Proposal:	Change of Use from commercial garage (car sales & repair) to a mixed use of commercial garage (car sales & repair) and hand car wash facility, incorporating new hardsurfacing and protective canopy at rear of the premises.		
Address:	Mill Garage, 26 Main Street, Caldecott, Rutland, LE16 8RS		
Applicant:	Mr Andrejs Nikiforous	Parish	CALDECOTT
Agent:		Ward	Lyddington
Reason for presenting to Committee:	Neighbour Objections		
Date of Committee:	3 March 2015		

EXECUTIVE SUMMARY

This proposal would result in a mixed use of complementary car-related activities. It has generated seven neighbour objections.

The key material considerations are waste water disposal, access arrangements, and impact on residential amenity. Additional information provided by the applicant has addressed these issues in accordance with Development Plan Policies.

Subject to appropriate conditions, the proposal is now acceptable.

RECOMMENDATION

APPROVAL, subject to the following conditions:

- The development shall be begun before the expiration of three years from the date of this permission.
Reason – To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans: LPA1 and LPA2.
Reason - For the avoidance of doubt and in the interests of proper planning.
- Access for cars using the hand car wash facility shall only be from Main Street, via the Mill Garage frontage, with egress only being from the rear of Mill Garage, directly onto Mill Lane
Reason – To ensure that the hand car wash facility is accessed via a one way system that minimises interference with other road users either queuing at the traffic lights on Main Street or using the Mill Lane / Main Street junction.
The car washing facility shall not be used other than between the hours of: -
Mondays – Saturdays 0800hrs to 1800hrs
Sundays. 1000hrs to 1600hrs
Reason - in the interests of the residential amenity of neighbouring premises, by ensuring that the facility is not operating at unsocial hours.
- Waste Water Disposal: Full wording to be set out in the Addendum Report

Site & Surroundings

- Mill garage is on the west side of Main Street (A6003), Caldecott, just within the southern Planned Limits to Development of the village. It is located between the junction with Mill Lane and a bridge over the Eye Brook. This bridge is subject to an alternate single lane flow, controlled by traffic lights. There are neighbouring dwellings to the north and north-east; other surrounding land is in the open countryside.

2. The site comprises a pair of attached two and three storey buildings used for car repairs and associated activities. The site frontage is used for car sales and parking. The rear curtilage is currently unused, other than some limited storage associated with the garage use.

Proposal

3. The current application proposes the use of the rear curtilage as a hand car wash facility, operated as a separate business from the commercial garage, but using the site frontage as a shared access. The submitted plans indicate that the rear curtilage would be used for a valet area and separate hand car wash. Customers would enter from the site frontage, then egress via a reopened gateway onto Mill Lane.

Relevant Planning History

None Relevant.

Planning Guidance and Policy

Rutland Core Strategy (2011)

CS1 Sustainable Development Principles
CS3 Settlement Hierarchy
CS4 Location of Development
CS13 Employment and Economic Development
CS16 Rural Economy
CS18 Sustainable Transport and Accessibility

Rutland Site Allocations and Policies DPD (2014)

SP1 Sustainable Development
SP15 Design and Amenity

National Planning Policy Framework

Section 1 Building a Strong Competitive Economy
Section 3 Supporting a Prosperous Rural Economy

Consultations

Following the initial consultation period, various technical details were subject to continuing correspondence between your officers, the applicant, the Environment Agency and Caldecott Parish Council. Where relevant, the views set out below were submitted at the end of this dialogue.

4. Caldecott Parish Council
Concerned about:
 - traffic management and congestion at the Mill Lane junction and Main Street traffic lights.
 - impact of uncontrolled hours of working

The Parish are also concerned about public liability insurance

5. Highway Authority
No objections, subject to access via Main Street and egress via Mill Lane.

6. Environment Agency
No objections, subject to a condition on any approval controlling the discharge of waste water.
7. Environmental Health Officer
To follow, via the Addendum Report

Neighbour Representations

8. Seven letters of objection have been received, raising the following issues:
 - Imprecise, poor quality plans, and insufficient supporting information
 - Congestion, and impact on traffic flows at the traffic lights on Main Street
 - Hours of Operation
 - Noise Control
 - Spray Control
 - Disposal of Waste Water
 - Potential Flooding
 - Ecological impact on Eye Brook, particularly from waste water
9. One letter of support has been received, suggesting that the applicant can be assisted to overcome the waste disposal and traffic management issues.

Planning Assessment

10. The main issues are
 - Principle of Development
 - Access and Parking
 - Waste Water Disposal
 - Impact on Residential Amenity

Principle of Development

11. Given that the proposed car wash facility is to be operated as a separate business and would take over the entire rear curtilage of the site, it is too significant to be accepted as an ancillary use to the main business. However, given that it shares an access with the main business, it cannot be considered as an entirely separate site (Planning Unit). Consequently this application is for a change of use of the whole site to a mixed use of commercial garage and car wash facility.
12. Caldecott is a Smaller Service Centre where the principle of such development is acceptable. Development Plan Policies and the NPPF encourage appropriate small business development in rural areas.
13. The proposed car wash is complementary to the existing garage business on the site. As a car-related facility it is also in a sustainable location on an "A" Road.
14. Given all this, the principle of such a mixed use development is acceptable.

Access and Parking

15. The comments of the Parish Council and neighbouring residents are acknowledged, particularly regarding potential conflict between traffic queuing at the Main Street traffic lights and slow moving traffic entering and leaving the site.

16. However, the Highway Authority has raised no objection, subject to a one-way arrangement of access from Main Street and egress onto Mill Lane.
17. Subject to such a condition, the access and parking arrangements are acceptable.

Waste Water Disposal

18. The Environment Agency objected to the application, as initially submitted, given the lack of information on waste water disposal, and concern that this could result in pollution of the Eye Brook. However, in light of additional information from the applicant, the Agency has now withdrawn its objection and has advised that a condition be imposed on any permission to ensure that the site is operated in accordance with these principles.
19. In essence, the applicant's proposal is to use surface water drains to direct waste water into a holding tank which will then be emptied periodically. The full wording of this Condition will be set out in the Addendum Report.

Impact on Residential Amenity

20. Given that the proposed car wash facility is at the rear of the premises, the potential impact on residential amenity is limited to properties beyond the rear boundary and otherwise on Mill Lane.
21. As a hand car wash facility, using hand-held spray jets, this would have a more limited impact than mechanised car wash facilities.
22. The applicant has provided details of a canopy intended to shield the washing area from the neighbouring property at No.1 Mill Lane. This would provide a barrier to dust and water splashes. In tandem with a condition intended to limit the hours of operation, this will minimise the impact on neighbouring properties.
23. Re-use of an existing egress onto Mill Lane would also have some impact on the amenity of neighbouring dwellings. This has to be accepted, as the egress point could be used more intensively, without any further need for planning permission, by heavier vehicles associated with the existing garage business.