

PLANNING APPLICATION NUMBER:P06/0647

Type of approval sought	Full Planning Permission
Ward	Belle Vale
Applicant	Hayley Group plc
Location:	WASTE LAND, SHELAH ROAD, HALESOWEN, WEST MIDLANDS, B63
Proposal	CHANGE OF USE TO CAR PARK (SUI GENERIS) (RETROSPECTIVE)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is a plot of land formerly containing undergrowth and unkept planting, which forms part of the Hayley Group PLC industrial site on Shelah Road. Access is between two factory buildings leading up to the area of land situated on a slightly higher land level on which planning permission is sought.
2. It is designated within the adopted UDP under Policy EE1 Key Industrial Area and Policy SO2 Linear Open Space.
3. The southern boundary of the site is attached with the rear gardens of properties in Fairmile Road; these properties again are in a more elevated position than the application site. Boundary fencing and smaller trees separate these properties.
4. The left hand boundary is adjoined by land belonging to another industrial premises in Shelah Road, the immediate area containing a number of trees along the common boundary.

PROPOSAL

5. The application seeks retrospective approval for change of use from what is described as wasteland to car park.
6. With the area already cleared and levelled, this consists of a hardcored area of 30m x 32m, with a 1m knee rail fence surrounding.
7. Access into this area has already been laid out, shown to be made up of a 5m wide concrete access, the remaining earth bank is to be landscaped.
8. Areas surrounding the south and west show a strips of land designated for further tree planting ort landscaping.

HISTORY

9. None relevant

PUBLIC CONSULTATION

10. Direct notification was carried out to all adjoining properties as a result of which several letters of objection have been received, objections can be summarised as follows;
 - The change of use has already been carried out
 - The wasteland has been in that state for approximately 25 years
 - Wildlife in the form of badger, foxes and rabbit have been disturbed
 - The type of undergrowth afforded noise protection, privacy and security from activity in industrial units
 - Loss of visual appearance from garden areas
 - Security has been compromised
 - Intrusion on privacy, people on car park have direct views into house
 - Noise pollution – car doors slamming and car alarms continually sounding

- Pollution from vehicles parking almost up to garden fence
- Surface will generate dust
- Planting of new trees will create more of a security problem as people can climb them to gain access into garden

11. One email is concerned that should HGV's be used, concerned these lorries would start early and finish late. However, if car park used for cars and light goods vehicles then no objection is raised.

OTHER CONSULTATION

12. **The Head of Traffic and Road Safety:** no objection raised.

13. **The Head of Environmental Protection:** does not raise any objection to this proposal; relevant comments are recorded in paragraphs 21-22.

RELEVANT PLANNING POLICY

14. Adopted UDP

Policy DD1 – Urban Design

Policy DD4 – Development in Residential Areas

Policy DD6 – Access and Transport Infrastructure

Policy EE1 – Key Industrial Area

Policy EP7 – Noise Pollution

Policy AM14 - Parking

Policy SO2 – Linear Open Space

ASSESSMENT

15. Policy EE1 states that Key Industrial Areas are those where industrial activity has accumulated to a point where it is of strategic importance. Industrial uses B1 (excluding offices) B2 and B8 and uses ancillary to these are considered acceptable.

16. The planning application (Part 2, question 3) states the car parking area is to be used for employees of Hayley Group PLC (the adjoining industrial premises) In these terms it is considered that the proposal should be supported in that it contributes towards the functioning of the wider Policy EE1 Key Industrial Area – it being seen as an acceptable ancillary land use.
17. On balance and noting the location's Policy EE1 designation, there is no objection to the proposal in terms of it being within a wider Linear Open Space as the open character of the area is still maintained.
18. Planning permission is required on the basis that the hard surfaced area is to be used as a car park. It should be noted that The Town and Country Planning (General Permitted Development) Order 1995, under Part 8 Class C permits '*the provision of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned*'.
19. The nearest properties to this development that have the potential to be affected by this proposal are those situated in Fairmile Road. As mentioned above, these are situated on a higher level, such that direct views are available into the car park. A distance of between 5-6m is maintained between the rear of the residential garden boundaries and the car park, with this area required to be landscaped. Overall distance between the habitable rooms of these dwellings and the car park result in a separation of
20. Photos submitted to the LPA by the applicant, show that the more significant trees have been retained along the boundary with these properties.
21. The Head of Environment Protection comments, 'there is the possibility of noise disturbance from individual employees using the car park but this is unpredictable. It is noted that the car park is already in use and that at present this Division is not aware of any complaints specifically arising from this use (albeit that the use has only taken place recently)'

22. It has been discussed that the submission of a landscaping scheme to protect visual amenity could also be used to a lesser degree to add some protection from disturbance by virtue of the depth of the landscaped area, a landscaping scheme could therefore be assessed on this basis.
23. The LPA is sympathetic to neighbour concerns relating to a loss of visual amenity, however, as noted above, this application offers an opportunity to formalise this area, with further landscaping to be requested providing additional screening. This would improve the visual amenity in this area and help to maintain the privacy levels to the dwellings. As outlined in paragraph 18, this area of land could be maintained as a hard surfaced area to be used in conjunction with the main industrial use, and therefore could be left as it stands without a formal planning application for its retention.
24. It should be noted that no restriction on the hours of operation exist at the site and this could extend to the use of this area for the storage of industrial products or materials.
25. The legal powers to protect land of nature conservation importance are the responsibility of English Nature, who only protect land that is of national or international importance.
26. The Council carries out surveys when preparing its Development Plan and designates land of local importance for nature conservation; areas or habitat would not generally be considered for protection unless they support rare species, as such this area did not receive such designation. The Council have not received formal evidence or information of the records of the animals formally present on this site and therefore refusal of the application on this basis could not be justified.
27. The removal of the undergrowth and vacant land provides a more open aspect, which in many respects, may help with the security in this area. It allows maximum

natural surveillance over the rear of the industrial units and approaches to the rear of the dwellings in Fairmile Road, again, refusal on this basis could not be justified.

CONCLUSION

28. The development is located to the rear of the industrial unit in a Key Industrial Area, in these terms it is considered that the proposal should be supported in that it contributes towards the functioning of the wider Policy EE1 Key Industrial Area – it being seen as an acceptable ancillary land use.

29. In assessing the impact upon neighbours, it is considered that with the use of appropriate landscaping, concerns regarding loss of privacy or outlook can be limited. It is therefore not anticipated that there would be an adverse impact upon the character of the area or upon the residential amenities of the adjoining occupiers.

RECOMMENDATION

30. It is recommended that this application be approved subject to the following conditions;

31. Reason for Approval

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley UDP (2005) and to all other relevant material considerations.

Conditions and/or reasons:

1. Within 2 months of the date of this approval, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority, which shall include details of existing trees and shrubs, new tree and shrub planting, seeding and surface treatments.

2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out by the developer in the first respective planting season (October 2006 to March 2007). Any trees or plants which within a period of five years from the completion of the landscape planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation, and such new planting shall be similarly maintained for a five year period from its planting.
3. The landscaped areas shall be retained in the forms agreed in the approved scheme of landscaping throughout the life of the development and shall not be used for any other purpose.