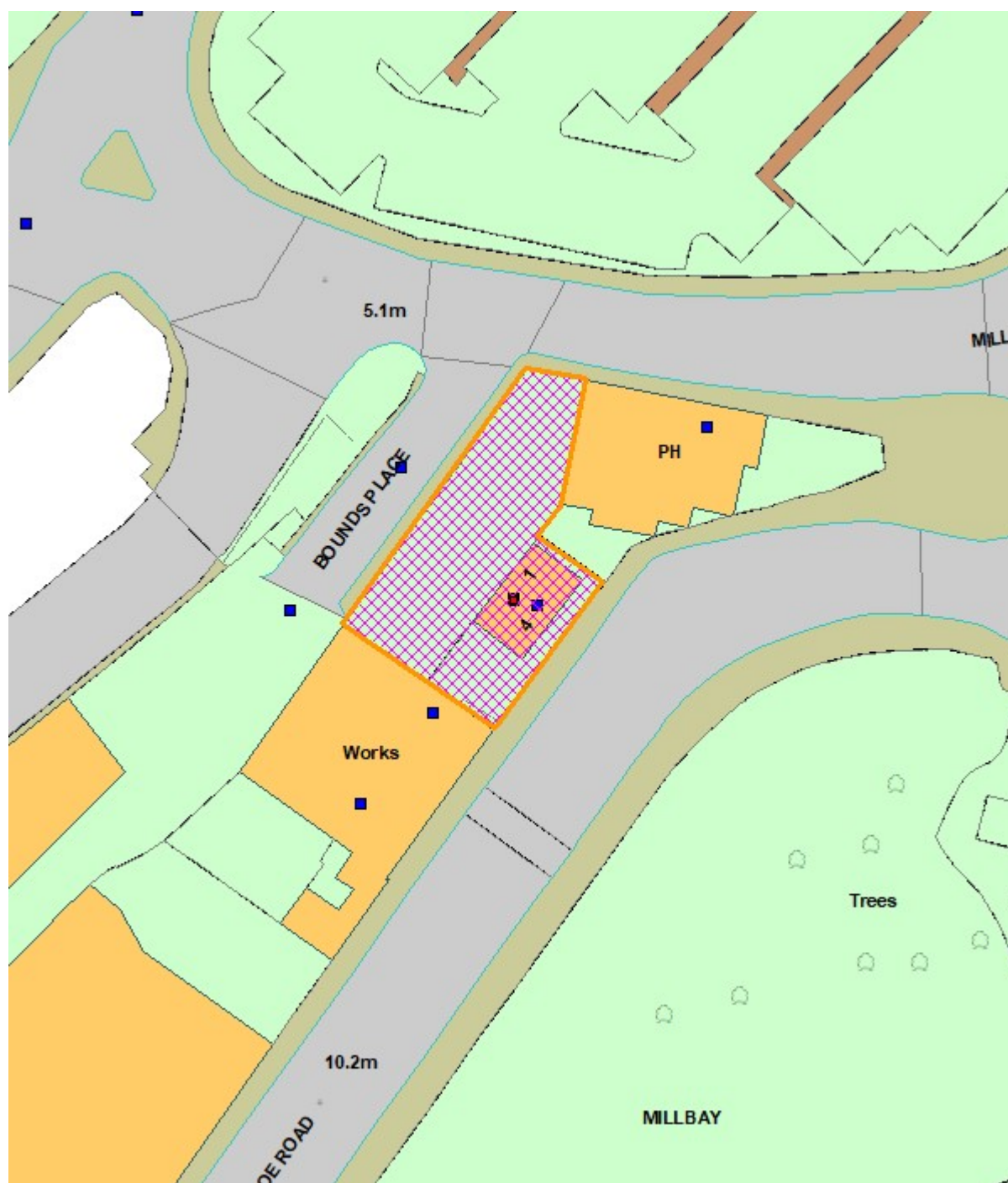


# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	19/01217/FUL	<b>Item</b>	<b>02</b>
<b>Date Valid</b>	18.10.2019	<b>Ward</b>	ST PETER AND THE WATERFRONT
<b>Site Address</b>	I Bounds Place Plymouth PL1 3LS		
<b>Proposal</b>	Side extension to form a vehicle repair workshop (Retrospective)		
<b>Applicant</b>	Mr Dara Mohammed		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	<b>13.12.2019</b>	<b>Committee Date</b>	<b>05.12.2019</b>
<b>Extended Target Date</b>	<b>N/A</b>		
<b>Decision Category</b>	Service Director of SPI		
<b>Case Officer</b>	Mr Mike Stone		
<b>Recommendation</b>	Grant Conditionally		



This planning application has been referred to Planning Committee by the Service Director for Strategic Planning and Infrastructure due to public interest reasons. The retrospective application has had an unusually large number of public comments both in favour and against the application.

### **I. Description of Site**

The application site is a car sales forecourt with ancillary office space and vehicle workshop located at the junction of Bounds Place and Millbay Road. Next door to the workshop is a large kitchen and bathroom warehouse building, part of a complex that includes a showroom and dedicated parking spaces. Next to the warehouse is a gated open parking area used by Plymouth Blood Bikes, an emergency response charity. Beyond this is Ballard House. Because of changes in ground levels, the site is set below the level of West Hoe Road to the east. The site falls within the area allocated in policy PLY29 for the development of the Millbay Boulevard and as part of that proposal, a multi-storey development of 80 extra care apartments is under construction to the west.

## **2. Proposal Description**

Side extension to form a vehicle repair workshop (Retrospective). The workshop is 7.5 metres wide, 7.2 metres deep and 4 metres high. The application follows a compliance case.

## **3. Pre-application enquiry**

There was no pre-application enquiry with this proposal.

## **4. Relevant planning history**

82/00256/FUL - Erection of car showrooms with ancillary office and workshop - Granted Conditionally.

## **5. Consultation responses**

Local Highway Authority - No objection

## **6. Representations**

Twenty seven letters of representation have been received. Twenty three letters are in support and four are letters of objection. The letters of objection raise the following concerns;

The building is not a steel frame structure, as described in the application

Vehicles block the road and obstruct traffic, including access for emergency vehicles in the Plymouth Blood Bike compound.

Garage customers parking in the showrooms parking spaces.

Loss of views from windows

Difficulties in cleaning windows and undertaking maintenance

Noise is transmitted to the neighbouring building

A car wash is planned for the future

Unsafe building

Loss of views from windows

No party wall agreement has been obtained.

Loss of views, maintenance, the quality of the garage and The Party Wall Act are not material planning considerations.

The Plymouth Local Validation List does not require plans and elevations for retrospective applications.

The letters of support make the following points

Good idea for this part of the city which is undergoing changes

Up and coming area

Site has been vacant for a long time

Asset to the community

Good for local people

Easy to access

Applicant is hard working and honest

Good customer service

Friendly staff

Improves the area and stops fly tipping which was a problem in the past

Convenient location close to the shopping centre.

## **7. Relevant Policy Framework**

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and by West Devon Borough Council and Plymouth City Council on March 26th 2019.

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption. This is set out in the Housing Position Statement conclusions in paragraphs 8.6 and 8.7. The three authorities have jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level, and are currently awaiting a response from MHCLG regarding the Housing Delivery Test Measurement and its implications.

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

1. **8. Analysis**

This application has been considered in the context of the JLP, the Framework and other material policy documents as set out in Section 7.

2. The application turns upon policies PLY29 (Millbay Waterfront), DEV1 (Protecting health and amenity), DEV2 (Air, water, soil, noise, land and light), DEV20 (Place shaping and the quality of the built environment), and DEV29 (Specific provisions relating to transport) of the JLP and the National Planning Policy Framework (NPPF) 2019. The primary planning considerations in this case are the impact on the character and appearance of the area, the impact on the amenity of neighbouring businesses and the impact on the highway network.

3. **Impact on the character and appearance of the area,**

Bounds Place is a short cul-de-sac running north east to south west from Millbay Road. The road consists of the rear elevation of the Salumi bar and restaurant, including a large 48 sheet billboard, the subject property, large buildings and parking spaces belonging to the Jobel kitchen and bathroom showroom and the Ballard House multi-storey car park. The street scene here is not of the highest quality and the overwhelming architectural style is the functional.

4. The workshop is utilitarian in appearance consisting of two work bays. External materials and the colour scheme match the main building. The case officer does not feel that the as constructed workshop has an adverse impact on the character and appearance of the area.

5. **Impact on the amenity of neighbouring businesses.**

The new workshop has been built next to the boundary of the neighbouring kitchen and bathroom warehouse to the south west. Letters of objection has been received that reference problems with noise from the garage that has required the relocation of offices and keeping windows closed.

Noise is a material planning consideration. There is a section on noise in the Planning Practice Guidance, though it is naturally mainly concerned with the impact on residential amenity. Planning Practice Guidance states that it is important to look at noise in the context of the wider

characteristics of a development proposal, its likely users and its surroundings. The application site and the neighbouring area are commercial and industrial in character.

Planning Practice Guidance says that decision makers need to take account of the overall "acoustic environment and in doing so consider whether a significant adverse effect is occurring or likely to occur." The main noise impact is from power tools which are used in short bursts and not at any regular in time slots. Considering the overall acoustic environment of the area, the case officer considers that there is no significantly harmful impact on neighbour amenity in terms of noise and the proposal complies with policy DEV2. A new hotel is proposed for the Pavilion's car park site to the north east and the extra care homes development to the west is nearing completion. To protect the future amenity of these schemes, conditions controlling the hours of opening and operation are recommended.

#### **6. Impact on the highway network.**

Letters of objection have mentioned that vehicles from the garage park on the road, in private parking spaces and block the access to the showroom and the Plymouth Blood Bikes depot. There are double yellow lines in front of the site which would allow any overspill car parking to be regulated. There would be an expected small increase in associated car movements from the two additional car workshop spaces, but the local road network would have the capacity to accommodate the additional comings and goings over the course of the day. There is capacity for car parking nearby in public car parks, with on-street Pay and Display parking in some of the nearby streets. The Local Highway Authority considers that the application site provides adequate space for cars to park and manoeuvre within the site.

#### **7. Other matters.**

The case officer does not consider that approval of the application would have any impact on the plans for the future regeneration of the area associated with the Millbay Boulevard project and Policy PLY29. The workshop was also built without building regulations approval and Plymouth City Council Building Control Service is currently undertaking a separate review.

#### **8. Intentional Unauthorised Development**

Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

9. The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

10. It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

11. Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

### **9. Human Rights**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

### **10. Local Finance Considerations**

Not applicable.

### **11. Planning Obligations**

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

No planning obligations have been sought in respect of this application.

### **12. Equalities and Diversities**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty. A large number of letters of support have been received from Plymouth's Kurdish community but this has had no bearing on the decision making process. The case officer has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

### **13. Conclusions and Reasons for Decision**

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the development, for the reasons set out in the Analysis section, does not have an adverse impact on the character and appearance of the area, have a significantly harmful impact on neighbours or impact on highway safety.

The development accords with policy and national guidance and is considered to comply with policies DEVI, DEV2, DEV20 and DEV29 and the NPPF. The application is recommended for approval.

### **14. Recommendation**

In respect of the application dated 18.10.2019 it is recommended to Grant Conditionally.

### **15. Conditions / Reasons**

#### **I      CONDITION: HOURS OF OPENING**

The use hereby permitted shall not be open to customers outside the following times: 08:30 hours to 17:00 hours Mondays to Friday, 08:30 hours to 16:00 hours Saturday and closed on Sundays and Bank or Public Holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan (2014 - 2034) 2019 and the National Planning Policy Framework 2019.

## **2      CONDITION: HOURS OF OPERATION**

No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 08:30 hours to 17:00 hours Mondays to Friday, 08:30 hours to 16:00 hours Saturday nor at any time on Sundays and Bank or Public Holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan (2014 - 2034) 2019 and the National Planning Policy Framework 2019.

## **INFORMATIVES**

### **1      INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

### **2      INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)**

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

### **3      INFORMATIVE: BUILDING REGULATIONS APPROVAL**

The applicant is advised that they will also need to obtain Building Regulations approval for the workshop.