

Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building  
Former site of the Stardust Nightclub, Beveridge Lane, Bardon, Coalville, Leicestershire LE67 1TS

Report Item No  
A1

Application Reference  
23/00565/FUL

Grid Reference (E) 445660  
Grid Reference (N) 311951

Date Registered:  
9 May 2023

Applicant:  
Mr Brett Parker

Consultation Expiry:  
27 September 2023

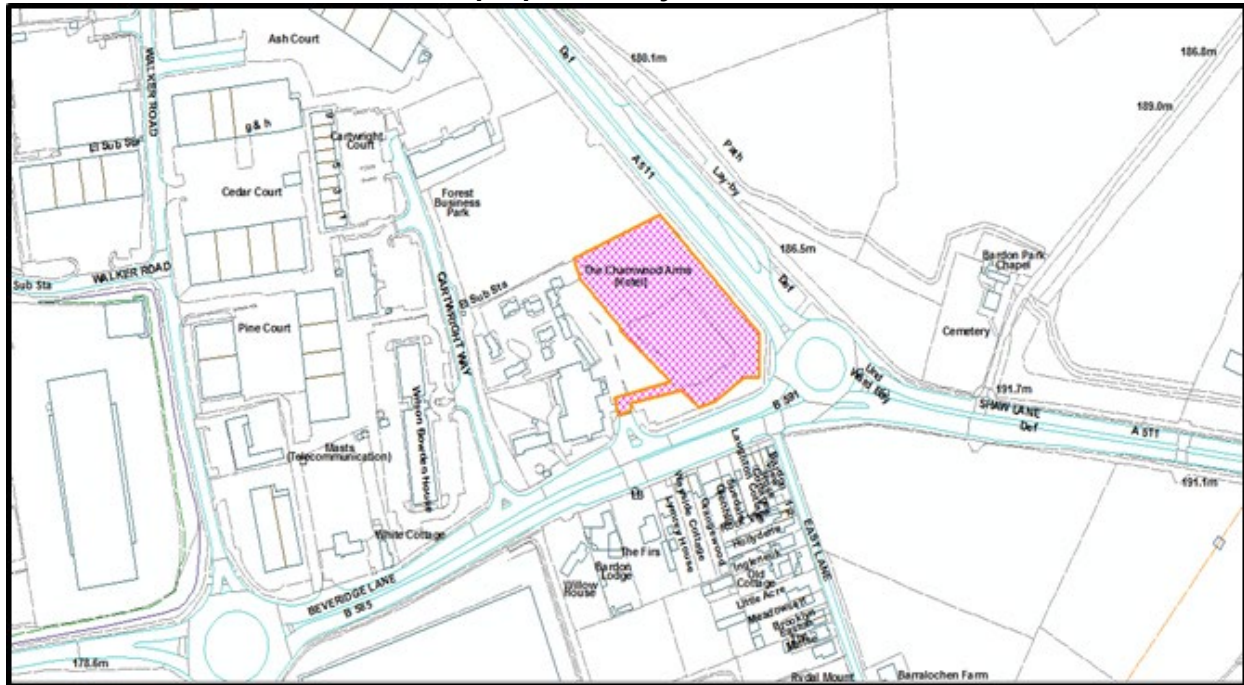
Case Officer:  
Hannah Exley

Determination Date:  
10 November 2023

Extension of Time:  
10 November 2023

Recommendation: Refuse

Site Location - Plan for indicative purposes only



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**Reason the case is called to the Planning Committee:**

The application is brought to the Planning Committee for determination at the request of Councillor Merrie due to concerns about highway safety and the risks to pedestrians.

**RECOMMENDATION – REFUSE, for the following reason:**

- 1 Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) 2023 require that the planning system contributes towards the achievement of sustainable development, and sets out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 114(b) requires that ‘safe and suitable access to the site can be achieved for all users’, paragraph 115 requires that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety’ and paragraph 116c provides that applications for development should create places that are safe, secure and attractive and which minimise the scope for conflicts between pedestrians, cyclists and vehicles. Paragraph 193 of the NPPF provides that “Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established”. The application proposes to access the site via an unadopted highway and through an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance, the difficult nature of the HGV manoeuvres through the unadopted highway and car park at this point (and on site evidence in the form of damaged kerbstones and vehicular encroachment into grassed area, used for pedestrian refuge, to show that manoeuvres are not being undertaken as envisaged) and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development that would not provide safe access for all users of the unadopted highway passing through the site, contrary to highway safety and therefore, would not constitute sustainable development. Furthermore, public safety concerns around the use of the car park as a result of the proposed use could serve to impact negatively on the business operations of an existing established public house/restaurant and hotel through which the site access route passes. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 114 (b), 115, 116 and 193 of the NPPF.

## MAIN REPORT

### 1. Proposals and Background

Permission is sought for the change of use of land for the parking of Heavy Goods Vehicles (HGV's) for a period of 36 months. The application also includes the erection of fencing/gates and a mobile building on the 0.8 of a hectare of site off Beveridge Lane, Coalville that was formerly occupied by the Stardust entertainment venue. The application site is located at the junction of Beveridge Lane (B585) and Bardon Road (A511). The access to the site would be off the B585, utilising the existing vehicular access to the Charnwood Arms (pub, restaurant, and hotel) via a route which passes through the car park to the Charnwood Arms.

#### Proposed Site Plan:



The site is currently in use as a lorry park for HGV's and has been since the granting of a temporary planning permission in 2020 for a temporary period of 36 months under application 20/00264/FUL. The earlier permission for lorry storage expired in June 2023 and the use of the site is currently unlawful.

The justification provided by the applicant for the temporary use when previously proposed was that the current economic climate does not permit the site to be fully developed for the intended use and the proposed use is temporary to allow the site to be used and generate some income towards the pre-development costs of fully developing the site for B1 use.

Regarding the proposed use of the site, the supporting information as submitted by the applicant provides justification for the temporary permission sought which is summarised as follows:

- The rationale for the temporary use remains as previous - the current economic climate does not permit the site to be fully developed as envisaged, noting that in the intervening three years, the economic climate has worsened and there are no plans to redevelop the site.
- Since June 2020, the need to provide truck-stop facilities has increased dramatically, as set out in the Department for Transport Circular 01/2022 - Strategic road network and the delivery of sustainable development (December 2022) which provides as follows:

*“It is recognised that on certain parts of the SRN and at certain times a shortage of parking facilities for HGVs can make it difficult for drivers to find safe space to stop and adhere to requirements for mandatory breaks and rests. To alleviate the shortage, the expansion of existing facilities on the SRN is likely to be needed alongside the creation of new parking sites. As a result, existing truckstops (including closed facilities) on or near to the SRN must be retained for their continued and future use unless it can be clearly demonstrated that a need no longer exists.”*

- Adjacent to the Strategic Road Network (SRN) (A511) and less than two miles from Junction 22 of the M1, the current facility serves a vital function as a truck stop in the area;
- There are a shortage of truck stops in the vicinity (only four truck stops along a 50 mile stretch of the M1 Motorway from Lutterworth to Hucknall) far below the standards in the circular.
- There is a need for the facility and its loss would have detrimental impacts on the function of the SRN and the safety and security of HGV drivers and other road users.
- Due to being the only dedicated truck park in the area, the site is very popular with passing hauliers and the site provides parking for many local businesses who require assistance with parking.
- The site is a Driver and Vehicle Standards Agency (DVSA) recognised operating centre for various companies, creating many local jobs.
- Paragraph 80 of Circular 01/2022 requires that existing truckstops (including closed facilities) on or near to the SRN must be retained for their continued and future use unless it can be clearly demonstrated that a need no longer exists, but a need exists for this site.

At the time of the officer site visit, the site was not being operated as shown on the site layout plan in terms of the location of the site office and the layout of parked vehicles. The type of vehicles kept was also not limited to HGVs with light goods vehicles, vans and cars present on the site. The western boundary of the site is occupied by close boarded fencing in front of the open wire mesh fencing and some floodlighting had been installed.

The Council's Enforcement Team set up an investigation into the unauthorised works and the applicant has been advised to remove or turn off the floodlighting. Floodlighting is not part of the current proposals and therefore, regardless of the outcome of this application, the issue of unauthorised floodlighting will need to be addressed by the Council's Enforcement Team.

Notwithstanding these deviations from the previously approved scheme or the current scheme, the application must be considered based on the information submitted, having regard to the planning merits of the case and any other material considerations.

In terms of other supporting documentation, a noise assessment and swept path details for the largest anticipated vehicles using the site and a highway mitigation signage strategy were provided during the application at the request of officers.

### **Relevant Planning History:**

21/00556/VCI - Variation of conditions 2, 5, 6 and 7 of planning permission 20/00264/FUL to allow for amended access arrangements, amended layout and the submission of landscaping and lighting information required by condition (Withdrawn 28.03.23). This scheme requested a revised access route into the site northwards through the car park to a gated access further north along the western boundary opposite the hotel accommodation to the Charnwood Arms. Although withdrawn, the application was also supported by arguments which set out the problems with the previously approved (and currently proposed) access.

20/00264/FUL - Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building (Permitted 09.06.2020 and expired on 09.06.23). Condition 5 of that permission required details of landscaping to be agreed but no discharge of condition application was made to the District Council.

18/00315/VCUM - Removal/variation of condition 3 and 12 of outline planning permission 17/00048/OUTM to allow for alterations to the site layout and to allow for additional floor space (Withdrawn 29.11.2018).

17/00048/OUTM - Erection of units for light industrial B1(c) and storage and distribution B8 (outline - access, layout and scale included) (Permitted 25.08.2017).

06/01124/OUT - Demolition of existing night club and function rooms and redevelopment for B1 use (outline - siting and means of access) (Permitted 13.11.2006).

## **2. Publicity**

14 Neighbours have been notified.  
Site Notice displayed 18 May 2023.

## **3. Summary of Consultations and Representations Received**

The following summary of responses is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

Ellistown and Battleflat Parish Council raises objection on the following grounds:

Grounds of objection	Description of Impact
<b>Highway/Pedestrian Safety</b>	Suitability of access and egress which require a 90-degree left hand turn when leaving the site to get on to The Charnwood Arms road towards Beveridge Lane and a 90-degree right hand turn from The Charnwood Arms road to get into the site itself. Pedestrians and drivers of vehicles visiting The Charnwood Arms will be put at serious risk.
	There are insufficient road markings or warning signs to alert people of the dangers from the heavy traffic travelling through the car park.
	Who owns the access and egress route off Beveridge Lane? If it is not LCC Highways then, as part of this planning application, suitable and sufficient control measures need to be implemented to reduce the risk to pedestrians and vehicle users.
	The road into and out of the vehicle yard is in a very bad condition, with numerous potholes and very few road markings.
	The entrance and exit points from Beveridge Lane are also poor and vehicles which are not HGV's continuously turn right out of The Charnwood Arms car park to cut through the pause in the central reservation, which is meant for vehicles turning right, into the pub car park, off the opposite side of the dual carriageway.
<b>Permanence of the use</b>	The original planning application was for a temporary 3-year HGV park, it is concerning that the word temporary is being used for something which appears to be far from temporary. If planning approves this application again, without addressing the concerns which are being raised, will this set a precedent if another temporary planning application arrives from the owner in three years' time for an HGV park? When does temporary stop being temporary and become permanent?

**Leicestershire County Council – Highways** – has no objections subject to conditions and a financial contribution towards highway works.

**Leicestershire County Council – Ecology** - advise that there would be no habitat loss and therefore, biodiversity net gain is not required.

**NWLDC Environmental Protection** raise no objection on the grounds of noise following the submission of a noise impact assessment.

**NWLDC Environmental Health – Safety Team** advise that there is a foreseeable risk to pedestrians using the car park of the family friendly restaurant/public house, from the heavy goods vehicles (HGVs) passing through the car park.

**Third Party Representations**

17 letters of representation (one including a Traffic and Transport Report and CCTV Survey) have been received raising objection on the following grounds:

Grounds of objection	Description of Impact
<b>HGV's and Highway/Public Safety</b>	Access requires 90-degree turns both in and out of the site which is unsuitable for HGV's
	Access to the lorry park is directly through the middle of a car park utilised by families and guests visiting a local public house and restaurant and the lorry park conflicts with the route of people going to the pub with numerous serious near misses involving HGVs and the general public having been witnessed
	Near misses witnessed range from small children trying to avoid the trucks to elderly drivers nearly reversing into oncoming HGVs and could have led to serious injuries
	HGVs were originally travelling directly through the car park, past the hotel to access the HGV park in the NW corner due to the unsuitability of the proposed access but this was unlawful, and the layout has changed in April 2023
	If a car is parked slightly forward of the parking spaces, then the HGV will struggle to get round meaning they have to blind reverse to generate the angle to continue
	Exiting out of the corner is also dangerous as HGVs have to enter the oncoming lane to avoid riding the kerb stone on the corner. This corner has already been damaged as a result
	Damage to the road surface by HGV's causing dangers for vehicles using the car park and trip hazards for pedestrian walking through the car park
	Vehicles are having to reverse back onto the highway with a speed limit of 70mph to enable space for two vehicles to pass within the car park
	The speed of vehicles entering the site is too fast due to the national speed limit of the A511
	The access to the site should be via the A511 as it was historically, and permission has recently been granted for a new access off the A511 further along the road
	Capacity of surrounding highway network
	The A511 is used as racetrack at night
	The application should be refused on highway safety grounds and enforcement action taken
	Information provided by the applicant in support of application 21/00556/VCI for an alternative access sets out their own concerns about the suitability of/ difficulties in using the currently proposed access by HGV's and the impacts on highway and pedestrian safety
	Concern about interpretation of highway safety which should not be restricted to safety within the 'public highway' and as an access route within a car park has effectively been turned into a highway to enable vehicles to access the lorry park, paragraph 111 of the NPPF is applicable to this proposal
	The support for lorry parking to support the Strategic Road Network does not offset the more localised highway safety

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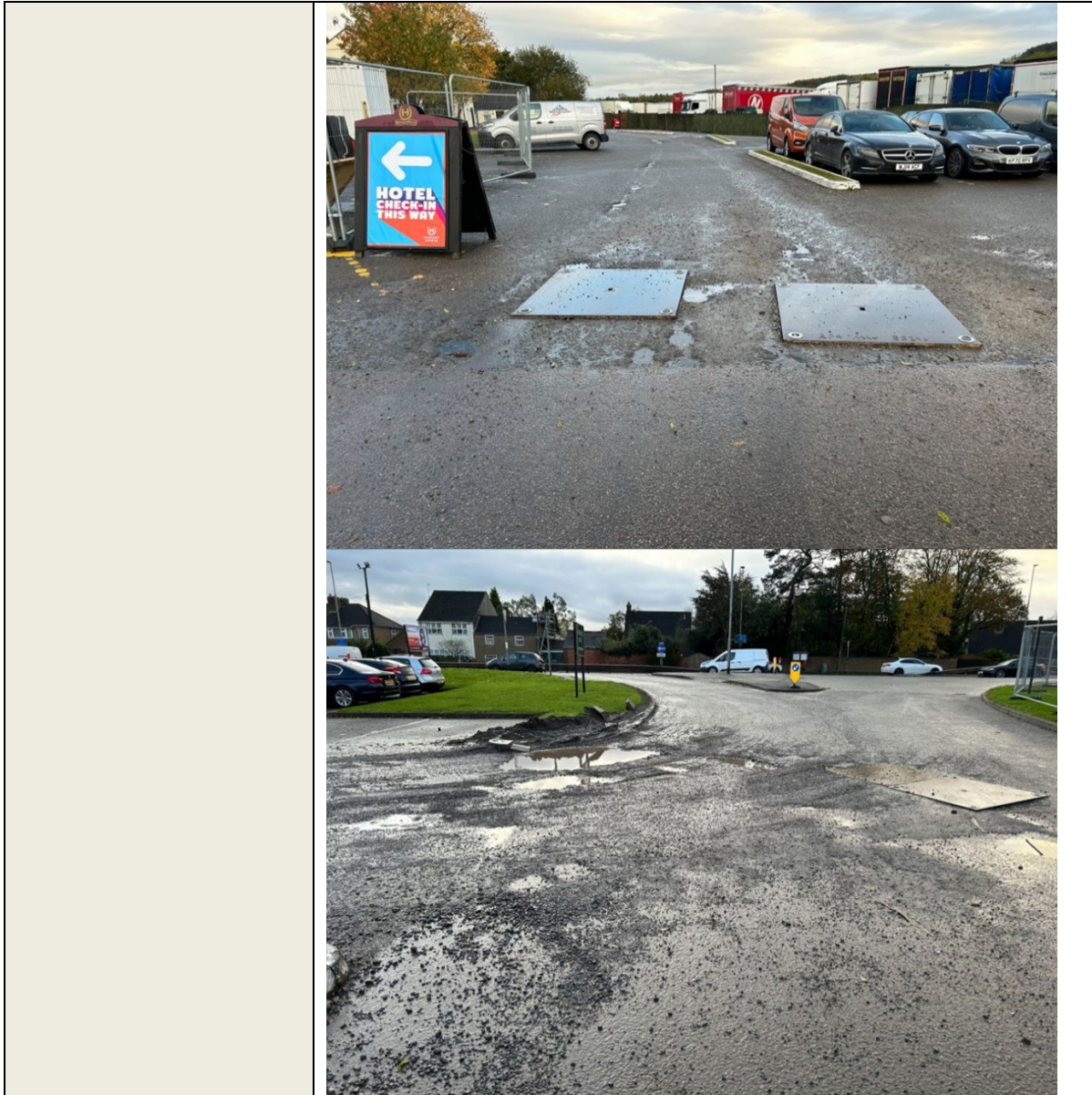
	impact and should be afforded limited weight
	A customer has fallen down a pothole within the car park to the Charnwood Arms over the Christmas period and sustained an injury and the potholes have arisen due to the damage caused by lorry park operations over a surface that was not design for such vehicular activity
<b>Residential Amenities</b>	A noise assessment is required
	Noise Impact report does not consider the impact on houses opposite, does not factor in wind direction and the noise equipment was incorrectly positioned and so the readings are inaccurate and should not be taken into account
	Noise and disturbance from comings and goings all through the night and from the running of refrigerated lorries and generators though the night
	The fencing is inadequate and acoustic fencing is required to reduce the noise of lorries and engines powering the refrigerated trailers
	New fencing would also block out lights from vehicles, the office/WC unit from shining in neighbouring windows opposite the site
	Litter and waste attract vermin
	Noise report states the speed limit of the A511 is 70mph, but it is 50mph and the B585 is 60mph when it is 70mph
	The flood lights are still being used in October 2023 without planning permission
<b>Need for overnight parking</b>	Notwithstanding any national need for overnight parking, this is not the right location for this development
	Lorry parking should be a mandatory requirement of industrial estates
	Whilst there may be a need for lorry parking in the area, alternative facilities are available, and the proposed location is unsuitable and causes significant adverse impacts
<b>Visual Amenities</b>	The lorry park is another blot on the landscape of the area;
	New tree planting on the outside of the site would help hide views of the truck park
<b>Impact on Local Business</b>	Noise impacts on residential accommodation provided at the Charnwood Arms including 34 guest bedrooms and permanent accommodation for the Manager with many rooms facing directly onto the lorry park
	The Charnwood Arms has received multiple complaints from overnight visitors, relating to the noise, light and disturbance generated by the lorry park. Indeed, these complaints are reflected in reviews of the business, left on travel websites
	Impact on the Charnwood Arms business/revenue
	Fear of damage to vehicles using the car park
	The proposed operation is having consequences for the neighbouring local business and if continues to deter guests



PLANNING APPLICATIONS- SECTION A

	because of negative reviews, then the continued operation of the business (community facility and visitor accommodation) will be severely threatened
<b>Other</b>	Land registry deeds require a new access to be formed to the land and the landowner has knowingly allowed the use without this
	Notice has not been served on the landowner
	The red line site area does not meet the highway boundary
	Lorries are being parked too close together which would be problematic if there was a fire, spillage or other emergency on the site and there is no fire assembly point on the site
	The site is being used as an operational centre by some hauliers with maintenance, repairs and servicing of their vehicles being undertaken on the site allowing chemicals into the environment
	The previous permission was not complied with, and vehicles are not being parked in the layout shown and lighting has been added
	Another temporary permission should not be granted
	The applicant's statement that there have been no concerns arising from the existing use of the site is inaccurate as concerns have been raised prior to and during the application
	PPG says the granting of a secondary temporary permission is rarely justifiable
	The three years it has operated shows that the site is inappropriate for the use and dangerous
	If deemed acceptable permission should only be granted for 1 year
	The ditch surrounding the site should be reinstated if permission is refused
	Light goods vehicles and buses are also being stored at the site;
	The proposal conflicts with Policies D1, D2, EC13, IF2, IF4, IF7 of the adopted Local Plan
	Concern about fires/explosions from the future use of electric/battery/gas powered trucks (including their cargo) on the site near to a residential area due to examples of electric cars and buses catching fire
<b>Traffic and Transport Report (June 2023) by Consultants RGP on behalf of the neighbouring business</b>	<p>A traffic survey has been undertaken on Monday 15<sup>th</sup> May and Sunday 21 May with CCTV cameras being installed to capture all movements in and out of lorry park via the pub providing evidence of examples of major safety concerns regarding the operation of the site, in terms of conflict arising between pedestrians and HGVs in the car park, as well as impacts on the free flow of traffic on the B505. The following results are presented in a Traffic and Transport Report (available to view on the Council's website) which can be summarised as:</p> <ul style="list-style-type: none"> <li>- The lorry park is significant trip generator accounting for one third (223 vehicle movements per day on average)</li> </ul>

	<p>of vehicle movements into the car park;</p> <ul style="list-style-type: none"> <li>- 57 percent of movements to the lorry park are by HGV's;</li> <li>- The lorry par operates 24/7 with most movements during the pub trading hours;</li> <li>- The sharp right and left turns into and out of the lorry park are difficult to manoeuvre and damage to kerbs, landscaping and pub signage has arisen;</li> <li>- HGV's obstruct vehicles entering the site resulting in a back-up of vehicles onto the B585;</li> <li>- There is a high risk of pedestrian/vehicle conflict in the car park to the pub/restaurant in the absence of any dedicated pedestrian refuge with examples being recorded during the survey;</li> <li>- HGV's turning into/from the lorry park block the site access, and cause traffic to queue to enter the site onto the adopted highway, increasing the risk of vehicle collisions;</li> <li>- Incidents of multiple HGV's arriving concurrently impacts on the highway with vehicles queuing to enter;</li> <li>- Illegal rights turn manoeuvres onto Beveridge Lane when only left turns are permissible raises highway safety concerns and no solution is proposed to prevent this;</li> <li>- The applicant does not own land outside the site to enable measures to be put in place to control traffic to prevent illegal manoeuvres.</li> </ul> <p>The report concludes that there are significant safety implications with the lorry park and the access arrangements in the context of the pub/restaurant/hotel car park and no priority is given to cyclists or pedestrians, giving rise to an unacceptable impact on highway safety.</p>
<p><b>Photographs provided by the Charnwood Arms</b></p>	<p>Photographs provided to highlight the following issues:</p> <ul style="list-style-type: none"> <li>• Over running of verges to show that lorries cannot make the manoeuvres the tracking suggests they can;</li> <li>• Dissemination of the car park surface;</li> <li>• Evidence of the volume of vehicles passing through the car park from the number lorries parked up, with each vehicle movement is a risk to the public;</li> <li>•The disruption the pub is facing.</li> </ul>





Members are advised that all responses from statutory consultees and third parties are available to view in full on the Council's website. Video footage of HGV activity at the site is also available through weblinks within the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd (Charnwood Arms).

#### **4. Relevant Planning Policy**

##### **National Planning Policy Framework (2023)**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are applied. The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraphs 7, 8, 11 and 12 (Achieving sustainable development)
- Paragraphs 47, 55, 56 and 57 (Decision-making)
- Paragraphs 55, 56 (Planning conditions and obligations)
- Paragraphs 85, 87 and 88 (Building a strong, competitive economy)
- Paragraphs 109, 111, 112, 113, 114, 115, 116 and 117 (Promoting sustainable transport)
- Paragraphs 123, 124 and 128 (Making effective use of land)
- Paragraphs 128, 132, 133, 134 and 135 (Achieving well-designed places)
- Paragraphs 180, 181, 182, 186 (Conserving and enhancing the natural environment)
- Paragraphs 165, 173 (Meeting the challenge of climate change, flooding, and coastal change).
- Paragraph 193 (Ground conditions and pollution)

##### **Adopted North West Leicestershire Local Plan (2021)**

The North West Leicestershire Local Plan forms part of the development plan and the following policies of the Local Plan are relevant to the determination of the application:

- S1 - Future Housing and Economic Development Needs
- S2 - Settlement Hierarchy
- S3 - Countryside

D1 - Design of New Development  
D2 - Amenity  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
Ec1b – Employment Provision: Permissions – Rear of Charnwood Arms, Bardon  
En1 - Nature Conservation  
En3 - The National Forest  
En4 - Charnwood Forest  
En6 - Land and Air Quality  
Cc2 - Water - Flood Risk  
Cc3 - Water - Sustainable Drainage Systems

### **Other Guidance**

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System  
National Planning Practice Guidance - March 2014  
Good Design for North West Leicestershire SPD - April 2017  
Leicestershire Highway Design Guide (Leicestershire County Council)

## **5. Assessment**

### **Principle of Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

The site lies within the Limits to Development where the principle of new development is acceptable. The northern section of the site appears to extend into part of a site identified in the adopted Local Plan as having the benefit of planning permission for employment purposes under Policy Ec1 (Site Ec1b).

Therefore, the proposed development is considered to be acceptable in principle.

### **Suitability of Temporary Permission**

The Planning Practice Guidance (PPG) explains that a local planning authority may grant planning permission for a specified temporary period only. Paragraph 014 explains, however, that: “It will rarely be justifiable to grant a second temporary permission”. The PPG adds that further permissions can normally be granted permanently, or refused if there is clear justification for doing so. Furthermore, the PPG states clearly that: “There is no presumption that a temporary grant of planning permission will then be granted permanently”.

Temporary planning permissions can be useful because they provide a ‘trial run’ to assess the effects of a development on an area and in this case, the operation of the site as a lorry park has given rise to neighbour complaints and objections.

In justifying the previous temporary permission, the supporting information accompanying that application (20/00264/FUL) detailed that the current economic climate did not permit the site to be fully developed for the intended use and the proposed use is temporary to allow the site to be used and generate some income towards the pre-development costs of fully developing the

site for B1 use. In the intervening period no proposals have been brought forward for a B1 use on the site. Since the publication of the previous Agenda Report for the November meeting (from which this application was withdrawn to allow the applicant and third parties additional time to provide further information), the applicant's agent has advised as follows:

*"The main issue in the determination of the application should be whether a further 'meanwhile' use can be supported. On the basis the Council have previously granted PP for an identical development, the key matter is whether a further temporary permission is justifiable. As per the NPPG, a temporary permission may be appropriate where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. If assessed as a trial run, then as mentioned, the effects have proven to be acceptable. The NPPG states, a temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use'). The NPPG then states that it will rarely be justifiable to grant a second temporary permission... further permissions can normally be granted permanently or refused if there is clear justification for doing so.*

*The current use as a truck stop is a 'meanwhile' use, the landowner's (SN Developments) long-term objective is to redevelop the site. However, in the period since the initial temporary permission was granted, the prospects of redeveloping the site have diminished (due to pandemic, economic circumstances, interest rates etc.). There is currently no prospect of SN Developments redeveloping the site in the next three years - these are the circumstances which justify a further temporary permission. SN Development are currently preparing a letter to confirm that is not viable to develop the site in the current economic climate."*

From the complaints received in respect of the application and the planning history and enforcement action taken on the site, it is clear that concerns have been raised by the local community regarding the operation of the lorry park use on the site over the past three years.

It is also noted that whilst temporary consent was granted in 2020 for a lorry park use, the approved access arrangements were not implemented until April 2023 and alternative arrangements were used to access the site (utilising an access to the north of the site). The issues surrounding the approved access as set out above have only been experienced for 7 months in that 3 year period and generated a complaint within 1 month of the previously approved access being used.

Having regard to the advice contained within the PPG, it is noted that temporary planning permission has been granted and sufficient time has passed to enable the impacts of the development to be established during this trial run period. It is not considered that any overwhelming argument has been put forward by the applicant to justify another temporary permission and in these circumstances, it is considered that the Local Planning Authority should either refuse the request for a further temporary planning permission or grant a permanent permission for the use of the land as a lorry park.

### **Need for the Lorry Park**

As set out in the background section of this report, the applicant has put forward an argument that there is a need for the lorry park due to the lack of existing facilities within the locality. Paragraph 113 of the NPPF provides that "Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, considering any local

shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.”

Objectors to the proposals have identified that there are some alternative lorry park facilities available within the local area, such as the Junction 23 Truck Stop, which is located just 6.6 miles from the site which provides comprehensive facilities, with 180 HGV parking spaces, a cafe, bar and restaurant, meeting room, showers, launderette, truck wash, and fuel. Additional truck stop facilities are located along the length of the M1 at regular intervals.

The applicant’s agent has drawn attention to the requirements of paragraph 80 of the Department of Transport Circular 01/2022 entitled ‘Strategic road network and the delivery of sustainable development’. Paragraph 80 states as follows:

*“It is recognised that on certain parts of the SRN [Strategic Road Network] and at certain times a shortage of parking facilities for HGVs can make it difficult for drivers to find safe space to stop and adhere to requirements for mandatory breaks and rests. To alleviate the shortage, the expansion of existing facilities on the SRN is likely to be needed alongside the creation of new parking sites. As a result, existing truckstops (including closed facilities) on or near to the SRN must be retained for their continued and future use unless it can be clearly demonstrated that a need no longer exists.”*

The applicant’s agent has also advised as follows:

*“The loss of the truck stop would have detrimental impacts on the highway network and the safety and security of HGV drivers and other road users. This could be for a variety of reasons, e.g., drivers not being able to find areas to have breaks, drivers blocking lay-bys to park and rest, drivers’ safety being compromised in non-secured areas. NW Leicestershire Police recently identified HGVs Thefts as a priority matter (see image below). There have been dozens of incidents in NW Leicestershire involving HGV theft including serious assaults on drivers. Truck stops, like Bardon Truck Park (with CCTV, 24-hour security, excellent driver welfare) are crucial to deter such incidents. This is a key material consideration.”*

Given the proximity of the truckstop from the SRN (1.6miles), and the advice in the Circular, the applicant considers that due consideration should be given to the impact of closing an existing truck stop facility on the strategic road network. In considering the proposal against the Circular, it is important to note that the existing truck stop on the site is unlawful as it is currently operating without the benefit of planning permission. In this case, it is considered difficult to argue that a lawful lorry park would be lost when no planning permission exists to allow the lorry park use to operate from the site.

Notwithstanding this, consultation and discussion have been undertaken with National Highways who manage the SRN, to establish the impact of the truck park on the SRN. National Highways have advised that lorry parking is a key national policy issue for National Highways and North West Leicestershire is an area of high interest to them. In respect of the specific development proposals, National Highways advise that the development does not share a boundary with the SRN and would not have any material impact on the SRN, and, therefore, raises no objection. Therefore, the proposal is considered acceptable in respect of paragraph 80 of Circular 01/2022.

With regard to need, the Council's Planning Policy team has advised that there is some general commentary about HGV parking in Chapter 15 of the Warehousing and Logistics in the Leicester and Leicestershire: Managing growth and change (April 2021) report which is part of the evidence base for the new Local Plan. The report identifies that there are three reasons why lorries need to park away from their home depot creating a need for lorry parks, and these are: a) legally required breaks and rest, b) waiting for delivery/collection time slots and c) driver amenity and welfare (access to toilet/wash facilities and food and drink refreshments). It also identifies the environmental consequences of parking in inappropriate locations:

- Parking on the side of a highway and as a result impeding traffic flow, possibly causing congestion
- Parking at locations which are incompatible with the noise and exhaust pollution (running engines, refrigeration units) emitted by lorries e.g. residential area
- Causing damage to pavement or footpath infrastructure
- Parking vehicles at locations which are not suited to the visual intrusiveness of lorries.

In addition to the above consequences, goods vehicles parked at isolated lay-bys or patches of waste land are an easy target for criminals.

A national survey of overnight lorry parking was undertaken in 2017 for the Department for Transport (by consultants AECOM). The purpose of the survey was to provide a clear picture of the demand for lorry parking and facilities, including their capacity and utilisation, as well as other indicators of demand such as lorry parking in laybys and on industrial / retail estates. For the East Midlands, the survey estimates that at the time of the survey there was a capacity for 2,167 HGVs at on-site parking facilities. Overnight demand at that time was just over 3,000 HGVs per night, equating to an overall shortfall in capacity of around 865 HGVs. Overall, having regard to the evidence available, it is considered that there appears to be a need for such facilities within Leicestershire and therefore, this is a positive attribute of the proposed scheme and a material consideration in the determination of the application.

### **Impact on Heritage Assets**

The proposed site is located to the west of the listed cemetery off the A511. When having regard to the intervening cops of trees, the B585 and A511, along with the road traffic island, it is not considered that the proposal would affect the setting of the listed cemetery.

As a result, the application was subject to a general site notice under Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and no further consideration of the impact of the development on heritage impacts is required and the proposal would not conflict with Policy He1 of the adopted Local Plan.

### **Impact on the Surrounding Landscape/Adjacent Countryside**

Consideration has also been given to the use of the site for a temporary period and whether it has an acceptable impact upon the character and appearance of the area. The site abuts land identified as being outside the limits to development to the south and east and the site lies within the National Forest and the Charnwood Forest.

The site is located at the junction of the A511 and the B585, with the eastern boundary with the A511 currently occupied by mature hedging and trees. The boundary with the B585 (to the south) is currently occupied by 1.8m open wire mesh fencing. The site is visible through and above the height of the fencing from the public highway. To the west and north west, the site is



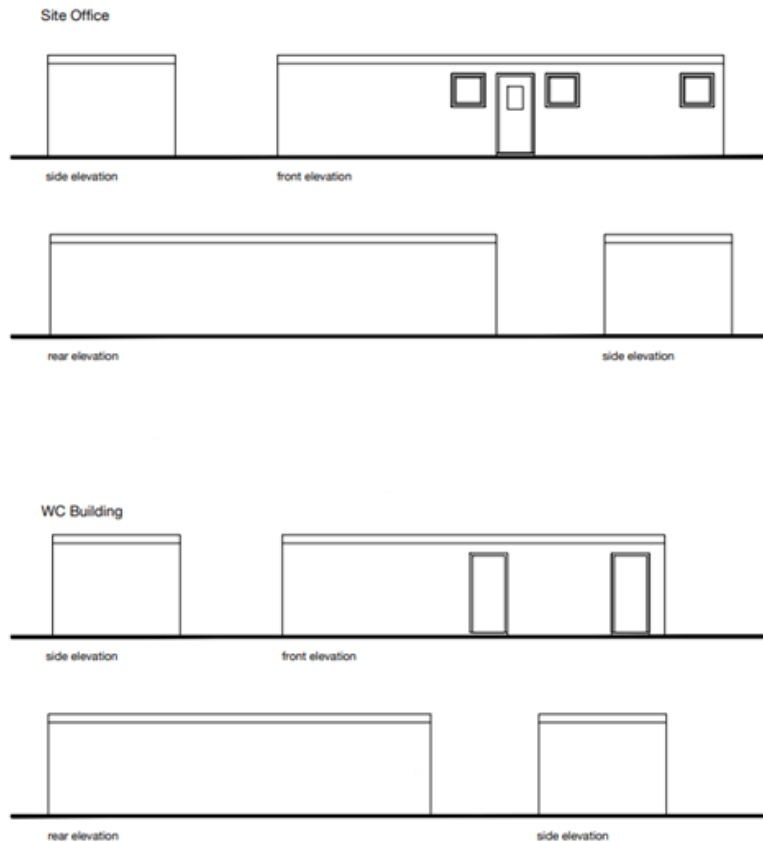
bordered by a commercial use; the Charnwood Arms which is a pub/restaurant with hotel accommodation. The access to the site off the B585 passes through the car park to the Charnwood Arms and utilises an existing vehicular access and therefore, the proposal would not necessitate substantial works at the site frontage to form the access.

The application seeks to retain an existing unlawful use at the site as a lorry park for HGVs for a temporary period of 36 months. The site is currently hard surfaced and has existing security fencing around the perimeter, although it is noted that there is also existing close boarded fencing present along the western boundary beyond the mesh fencing which was in situ prior to the lorry park use.

**Photograph of site frontage (taken June 2023)**



**Plans for the proposed Site Office and WC building**



The proposed temporary change of use would include the provision of green powder coated mesh security fencing/gates around the perimeter of the site and the siting of a mobile building to provide a site office. These are present on site, although it is noted that the site office is currently located within an area proposed for landscaping.

Where the site abuts the highway boundary to the east the boundary is occupied by mature vegetation which would be unaffected by the proposed use, and which would help to screen the parking of vehicles during this temporary period. From the south, the proposals would be viewed within the context of the existing commercial and industrial units to the west and north west and so would not appear out of keeping. Proposed tree planting is shown along the southern boundary of the site, which will also help soften the visual impact of the proposals from this direction. Any planting introduced would need to have some degree of maturity to have any visual impact given the limited timescale of the permission sought.

The previous temporary permission included proposals for landscaping along the southern boundary, but this has not been implemented. The requirement to agree and implement landscaping was the subject of condition 5 to the previous temporary permission but no discharge of condition application was submitted. Notwithstanding this, the current application must be assessed based on the newly proposed scheme which includes landscaping and as with the previous application, this can be controlled by condition. Should permission be granted, given the existence of the use on site, it is considered that the timeframe for the implementation of the landscaping should be strictly controlled and monitored to ensure

compliance and to ensure the development reflects the location of the site within the National Forest.

The site office is proposed to the north of the landscape strip along the southern boundary of the site which is in a prominent location fronting the B585. It is considered that a single storey site office in this location would be acceptable in the context of the wider site. As with the previous permission, it is considered that the site office should be conditioned to be single storey only.

Prior to the existing use occupying the site, the site bore the marks of its developed past and did not make a positive contribution to the area. In considering the visual impact of the previous proposal, officers considered that the proposal would have limited visual impacts upon the wider area and that these impacts would be on a temporary basis only. It was considered that the site would also be enhanced by the proposed tree planting. Whilst the proposed tree planting has not materialised on site, this is proposed again and, subject to landscaping being secured and controlled by condition, it is considered that the same conclusions can be reached about the visual impacts of the development on the character of the area and the surrounding countryside to the south and east of the site.

There has been no material change in the content of policy or site circumstances since the previous approval to justify an alternative view being taken in this regard and overall, as with the previous permission, it is not considered that the proposal would look out of keeping with the character and appearance of the surrounding area and is considered to be compliant with Policies D1, En3 and En4(3) of the adopted Local Plan.

### Residential Amenities

Since the implementation of the previous temporary planning permission, 6 complaints have been raised about the operation of the site as a lorry park: raising concern about general noise from the use of the site and specifically noise from the refrigerated lorries, lights shining into bedroom windows of nearby properties and health and safety concern at the site. These complaints range from September 2020 to July 2023 with three being received in 2020, one in 2022 and two in 2023.

**Plan to show former route into the site prior to April 2023 which was at no point was agreed by the District Council:**



The Council's Enforcement records disclose an investigation into the use of the site as a lorry park without complying with conditions on the temporary planning permission was set up. The investigation revealed the use of an unauthorised access route into the site, and the unauthorised use of the access ceased in April 2023 when the approved access route was brought into use. It is noted that the complaints about public safety were received following the change in access arrangements on the site. It is also noted that concerns about noise and light nuisances were received during the operation of the unlawful site access.

In addition to the letters of representation received to the current proposal, the above complaints to the District Council demonstrate that the temporary use of the site over the past three years has given rise to some disturbance to local residents/neighbouring occupiers. This is considered to be material to the determination of the current application.

Photograph looking westwards along Beveridge Lane showing the site and the Charnwood Arms on the right and the neighbouring properties on the left:



The nearest residential dwellings are located to the south of the site on the opposite side of Beveridge Lane which faces the development site. The Charnwood Arms pub/restaurant and hotel accommodation lie to the west of the application site. The properties on the opposite side of a dual carriageway and the Charnwood Arms are considered to be located at sufficient distance away from the site in order to prevent any significant loss of amenities to residents by means of overbearing, overshadowing or overlooking impacts arising from the proposed use or the proposed fencing/gates and office building on the site.

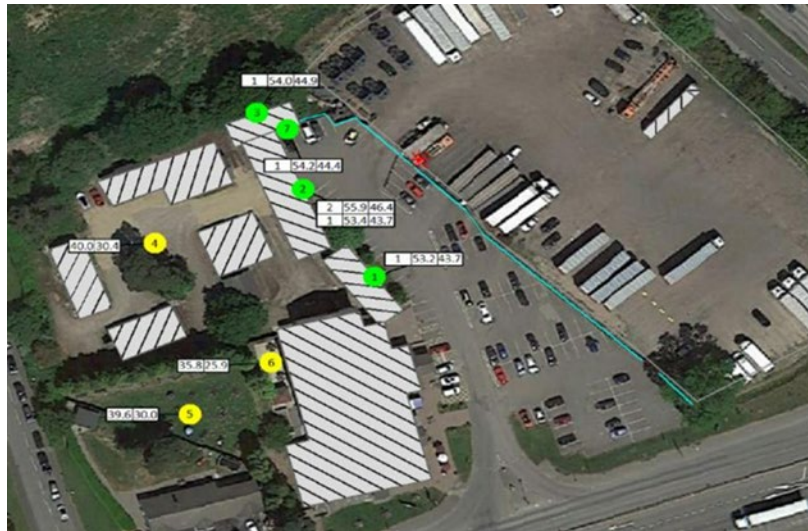
There would be vehicular movements to and from the site by HGV's and security staff in connection with the proposed use of the site. Objectors have identified that there are generators for refrigerated trucks being used at the site and this is to be expected in a lorry park.

In respect of noise and disturbance from activities undertaken at the site, a Noise Impact Assessment was provided during the application following a request by the Council's Environmental Protection Team. The report submitted considers the noise breakout from the

site (including fridge generators) at the Charnwood Arms only, which includes hotel accommodation and permanent residential accommodation for the Manager.

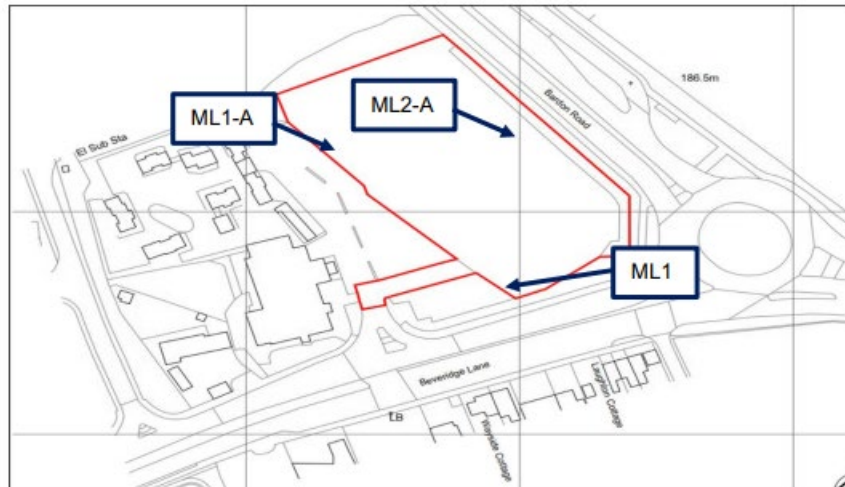
The noise monitoring information obtained during the survey undertaken by the noise consultant shows that that during the daytime and night-time, the noise more than the existing background sound level is 0 and +1 dB(A), with the background noise being dominated by road noise. The report goes on to conclude that a low impact is likely because of operational activities from the site. The Council's Environmental Protection team has been consulted on the application and has reviewed the findings of the Noise Impact Assessment and raises no objection to the application on the grounds of noise.

Image showing the location of noise monitoring receivers at the Charnwood Arms hotel accommodation (Green dot=receiver at external face of building, Yellow dot=receiver):



Concern has been raised by local residents about the suitability of the assessment which does not consider the noise breakout at properties on the opposite side of the road. The Council's Environmental Protection team have advised on this matter stating that there was a noise monitor placed on the south side of Bardon Truck Park (ML1 on the plan below). And that this is a good indicator of the noise impact to the properties opposite. The daytime and nighttime average noise levels recorded at this spot were 56db and 50db respectively. This is considered to be a low impact and would be lower if a noise monitor was placed on the other side of the road.

**Plan showing the approximate noise monitoring locations:**



Concern has also been raised about the suitability of the height at which the noise monitoring equipment was positioned, stating that a height of 0.5m is insufficient to adequately measure noise levels. The consultant has advised that ML1 (to ascertain the background sound levels) was attached to the palisade security fence approximately 2m above local ground level. It had a direct line of sight to the nearby road and was considered an appropriate selection to obtain background sound levels. ML1-A and ML2-A (measured the generator/ fridge located on site) and were taken at a height of 1.5 above local ground level. Noise levels measured at ML1-A and ML2-A were used with the background noise level to calibrate a 3D sound model.

Comments have been received about incorrect speed limit information within the Noise Assessment, but the consultant advises that this is an observational error and does not materially affect the outcome of the assessment because background sound levels were measured on site. Concern has also been raised about the absence of wind direction information within the report and the consultant has advised that average measured wind speeds were below 5 m/s throughout the survey which the consultant advises is a suitable wind speed in which to undertake a noise survey.

In terms of impacts from lighting, whilst there would be some light from the headlights of the vehicles using the site, these would principally be from vehicles exiting the site as there is close boarded fencing along the western boundary of the site and new tree planting is proposed along the southern boundary of the site. For HGV's exiting the site, this disturbance arising from headlights would be experienced in the context of general movements to and from the wider site during the hours that the Charnwood Arms is operating, it is not considered that the impact would be significant given the route of the proposed access to the lorry park area and the proximity to the nearest neighbouring residential properties/ ground floor hotel accommodation.

No floodlighting is proposed as part of this application, and this can be controlled in the future by condition. As set out above, any existing unauthorised lighting at the site will need to be dealt with through Enforcement.

It is noted that other types of vehicles are being stored at the site and vehicle repair activities are alleged in the neighbour letters. However, the proposal for which permission is sought is for the storage HGV's only, and any unauthorised vehicle parking/ other activities and uses would need to be addressed through Enforcement.

Overall, and notwithstanding the neighbour complaints that have been received in response to existing activities at the site, and the neighbour comments made in respect of the application, when having regard to the noise information provided, the advice of the Council's Environmental Protection team, it is not considered that the proposal would give rise to significant impacts upon the amenities of neighbouring residential properties or the amenities of hotel guests as a result the temporary proposal for the storage of HGV's. The proposal is considered to be acceptable in relation to Policy D2 of the adopted Local Plan and provisions of paragraph 191 of the NPPF.

### **Ecology and Biodiversity Net Gain**

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

In terms of Biodiversity Net Gain (BNG), the mandatory requirement for 10% Biodiversity Net Gain has now been enacted by the Government and is to go live on the 2<sup>nd</sup> of April 2024 for planning applications of this type. As the submission of this application predates the start date of the mandatory BNG, it falls to be considered under the requirements of paragraph 186(d) of the NPPF which sets out a requirement to minimise impacts on biodiversity and provide net gains in connection with the schemes (amount unspecified). The County Ecologist has been consulted on the application and advises that in addition to the development proposals being temporary, there would be no habitat loss on site and, as a result, there is no requirement to secure biodiversity net gain in this case.

In terms of general ecological requirements, the County Ecologist raises no objections, advising that the buffering to the existing hedgerow is adequate, and although there are badger records in the area, the main road would act as a barrier, so an ecology survey is not required.

When having regard to the above, the proposed development would be acceptable for the purposes of Policy En1 of the adopted Local Plan, Paragraphs 180(d), 181 and 186 of the NPPF and Circular 06/05.

### **Compatibility with the Existing Use and Car Park Safety**

The applicant's agent has taken on board the content of the previously published Report for this case that was put forwards for the November meeting of the Planning Committee and considers that the reason for refusal within the report relating to the incompatibility with a neighbouring use is as a result of a misapplication of policy. The agent considers as follows:

*“Notwithstanding the above, we are keen to understand if the draft reason for refusal will be the same as the previous Committee Report (attached) from November 2023? This suggests that the proposal is unacceptable due to the ‘agent of change’ principle, which is now set out at paragraph 193 of the NPPF. This states ‘Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed’.*

*As you will know, in basic terms, this policy introduced to stop developers building flats next to live music venues or other noisy uses so that the new residents don't the make noise complaints and get the existing uses shut down under noise disturbance legislation. As I've mentioned previously – I don't think this is relevant in the context of the application.*

*Based on the reason put forward, the 'agent of change' is the Truck Park, it implies that the truck park will have a significant adverse impact on the vicinity. However, this is simply not the case and is evident by the fact that the Truck Park has been operating on the site for the past 4 years without any degree of infringement to the neighbouring uses. The highways officer and the EHO [Environmental Health Officer] have responded with 'no objection' to the application, so it is not rational to suggest that the proposal has any significant adverse effect on the vicinity. No unreasonable or burdensome restrictions have been placed on the Charnwood Arms in the past 4 years and there is no prospect of any restrictions being placed on them in the future as consequence of the Truck Park. Whilst the Truck Park may be undesirable for Greene King . . . from a land use planning perspective, there is no issue and no 'agent of change'. This reason for refusal is very weak and, in my opinion, a misapplication of policy."*

In response to the above, as set out in the residential amenities section above, it is not considered that there would be any significant adverse impacts on neighbouring residential amenities arising from noise and disturbance arising from comings and goings to the site. The statement that no neighbour infringement has occurred is inaccurate as is evidenced by the complaints received prior to the submission of the application and during the course of the application. The impact on the operation of an existing business (bad neighbour issue) as detailed in the previous Agenda Report arose from public safety concerns within the car park of the existing business as a result of the operation of the truck park and this is discussed again below. Furthermore, it is considered that the proposed truck part would be an 'agent of change' and it is considered that it is appropriate to apply paragraph 193 in this case.

Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) require that the planning system contributes towards the achievement of sustainable development, and set out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 116(c) of the NPPF provides that development should "...create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles...". Paragraph 193 of the NPPF provides that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established". It is not considered that there are any development plan policies that would be directly relevant to this issue.

Whilst the access arrangements to the site remain as per the previous permission, consideration needs to be given to the impact of the use of the access during the temporary period during which the use has operated. As set out above, the use of the access as previously approved was not initially implemented, with an alternative access being used until April of this year. Since April, two complaints have been received by the Council about public safety in the car park and representations have also been made about vehicle and pedestrian conflict within the car park in response to the application.

Concern is raised that the current (and proposed) access position introduces risk to pedestrians, as a result of the turning of HGVs adjacent to the main entrance to the public house. The



turning HGV's cross the path of pedestrians walking to and from their vehicles in the car park. In this regard, it is noted that there are no dedicated pedestrian refuge areas which are separate from the path of oncoming vehicles. Several excerpts of CCTV footage have been provided within the Traffic and Transport Report accompanying the representations from the Charnwood Arms providing examples of the risks to pedestrians within the car park:

- Clip 010 shows patrons exiting the public house and having to move out of the way of an HGV entering the site before continuing the walk to their vehicle.
- Clip 011 shows an HGV entering the site, whilst pedestrians are walking to the public house from their parked vehicle within proximity of the lorry park access. A young pedestrian is accompanied by an adult, and the HGV cuts closely across the path of the pedestrians requiring the child to step up onto a grassed landscaped area.
- Clip 012 shows pedestrians seeking refuge from an oncoming HGV. This clip also shows a vehicle leaving the car park swerving out of the way of an incoming HGV.
- Clip 013 shows an adult holding back a young pedestrian exiting the public house from walking into the path of an oncoming HGV.

The above clips are available to view through weblinks within the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd.

In terms of the relative probability of pedestrian/vehicle conflict within the site, it is important to understand the number of vehicular movements passing through the site. In this regard, the Traffic and Transport Report by Transport Planning Consultants RGP does provide details of HGV movements over the one week survey period (Monday-Sunday). It shows that there are a significant number of site-wide movements across all the days surveyed with traffic to the lorry park accounting for between 17-34% of overall vehicle movements. These range from 101 HGV movements at the lowest on the Sunday, to a peak of 283 HGV movements on the Wednesday.

Whilst to date there have been no reported injuries because of vehicle pedestrian conflict following the access being brought into use since April this year, these figures show the potential for vehicle-pedestrian conflict within the site.

The Council's Environmental Health Safety Team has been consulted on the application in respect of the safety of the public using the car park to the Charnwood Arms and have reviewed the RGP Traffic and Transport Report. The advice provided is that *"there is a foreseeable risk to pedestrians using the car park of the family friendly restaurant/ public house, from the heavy goods vehicles (HGVs) passing through the car park"*. The Safety Team note that *"the vehicular access for the HGVs passes through the area of the car park closest to the entrance to the public house, where members of the public are most likely to park, creating an unacceptable danger through the creation of a shared traffic route for HGVs and pedestrians"*. Furthermore, the Safety Team advise that the vehicular right of way for HGVs through the car park, consisting of a sharp right turn for the heavy goods vehicles, is located directly opposite the entrance to the public house where pedestrians, including children, are walking. The concern is that *"this, in combination with the blind spots/zones (as highlighted in a recent National Highways 'Blind Spots' safety campaign, supported by the Road Haulage Association) that drivers have, further increases the risks to pedestrians using the car park further still"*.

The images below from the Council's Environmental Health Safety Team were taken in July of this year and are of the truck park access route through the public house car park. The images show the proximity of the HGV access route to the entrance of the restaurant/public house and

the associated car park, and the damage caused by vehicles turning and mounting the kerb/grassed area rather than following the route of the road.

<p><b>Proximity of public house entrance and pedestrian access route to the truck park access route.</b></p>	<p><b>Damage caused to kerb lines within the private car park at the point of the sharp right hand turn into the car park</b></p>
	

**With respect to the image above showing damage to the kerb lines, it is noted that more recent photographs provided within the neighbour representation section of this report shows that additional damage to the kerb lines has occurred since the above photograph was taken in July 2023.**

The damage to kerb lines within the site illustrates the difficulties HGV's have in maneuvering through the site within the space available and which inevitably takes the HGV's closer to the path of pedestrians walking at the edges of the HGV route through the site. It is also noted that these raised grassed areas which are being breached by vehicles are where pedestrians may find temporary refuge when passing through the car park. This was evidenced in the clips provided within the RGP Traffic and Transport Report.

The Council's Environmental Health Safety Team has considered the potential to serve an Improvement Notice on the applicant, under the Health and Safety at Work etc. Act 1974, to require works to mitigate the risks from the development, for example using protective barriers,

road markings to identify vehicle and pedestrian routes, and/or the creation of crossing points. However, the Safety Team consider that the improvements that could be implemented in this area would not reduce the risks posed to families using the car park and accessing and egressing the restaurant/public house to an acceptable level. Members are also advised that the car park is not owned by the applicant and, therefore, works cannot be secured without the permission of the landowner.

To seek to remove the public safety hazard, officers have also given consideration to the possibility of creating a separate access to the truck park off Cartwright way to the west of the site by including additional land to the north of the site, but the applicant has advised that this would involve land outside their ownership and is not an option. The informal advice of the County Highways Authority has been sought about the possibility of creating a new access off the A511 or the B585, but the advice provided was that this would be unlikely to be acceptable due to the close proximity of the roundabout, visibility and both would be contrary to Policy IN5 of Part 1 of the Leicestershire Highways Design Guide. With regards to a new access off A511, The County Highways Authority advise that the gradient and how the access would merge where two lanes reduce to one, would also likely prevent an acceptable access being designed. As for an access onto Beveridge Lane, the County Highways Authority also note that except for the currently proposed access, the current application site area along the southern boundary does not abut the highway. Having regard to the above, it is considered reasonable to conclude that the possibility of securing an alternative route into the site cannot be achieved within this application.

In the absence of an alternative, the application must be considered on the basis of the submitted scheme and in this regard, the Council's Safety Team conclude that *"the access route to the truck park through the existing car park of a family friendly restaurant/public house and the serious concerns for the safety of the car park users accessing and egressing the building from the car park [should] be considered as an incompatibility of uses for this land"*.

As set out above, paragraphs 7, 8, 116 and 193 of the NPPF seek to create safe and secure places where conflicts between pedestrians, cyclists and vehicles are minimized and where development can be integrated effectively with existing businesses without existing businesses not having unreasonable restrictions placed on them because of new development permitted after they were established.

The application proposes to access the site via an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance/hotel reception, the difficult nature of the HGV manoeuvres through the car park at this point and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development, not constituting sustainable development. Furthermore, it is considered that that the development could restrict the operation of an existing business on the site by inhibiting the safe passage of customers, adversely affecting the experience of customers visiting the neighbouring public house/restaurant and hotel. Poor reviews could affect the reputation and operation of the existing public house/restaurant and hotel. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 116 and 193 of the NPPF.

### **Highway Safety within the Public Highway**

As set out in the neighbour representations section of this report, various complaints have been received from local residents and a neighbouring business raising concern about the suitability

of the proposed access arrangements and the route through the car park into the HGV storage area. It has also been identified by objectors to the current scheme, that the applicant has previously sought to vary the proposed route into the site under withdrawn application 21/00556/VCI on highway safety grounds. The northern route into the site which the applicant sought approval for is set out on a plan within the Residential Amenities section of this report above.

For Members information, application 21/00556/VCI sought to retain an unlawful access into the HGV parking area which was located towards the northern end of the wider site and car park. The reason provided by the applicant in support of that application was that the unlawful access was safer than the approved (and currently proposed) access for the following reasons:

- *“The existing access allows drivers to exit off the carriageway and drive straight down the road to the entrance to the truck-park. This is the safest arrangement for access to the site and much safer than the approved access.*
- *The approved access requires drivers to make an immediate sharp right-hand upon entry to the site. This requires drivers to slow down and begin their manoeuvre whilst still entering the site (on the adopted highway). This manoeuvre occurs near the entrance to the pub – exactly where the pedestrian access into the pub is.*
- *The right-hand turn is very difficult to achieve in a single manoeuvre. Most drivers will need to reverse back to re-align and go through the car parking area. If larger cars or vehicles are parked in these bays, it can be very hard for HGVs to access the site. The prospect of manoeuvring here is particularly dangerous for pedestrians who are most likely to park at this end of the car park to access the PH / access the pub from the pedestrian entrance.*
- *The access is also awkward for HGVs egressing the site turning left, with the vehicles requiring all road space when ‘swinging out’ of the car park. This would result in vehicles being forced to wait within the highway for a HGV to make its manoeuvre, to the detriment of highway safety. Vehicles which would have to wait would also block the existing pedestrian crossing at the Beveridge Lane/Access junction, a highway safety concern for pedestrians.*
- *The approved access goes through the existing car park, whereas the implemented access goes down a separate road which is much wider road and delineated by raised curbing – it does not go through the car park.*
- *The implemented access is straight, sightlines are clear, it does not go through the car park, it does not result in vehicles stopping and potentially backing up to the carriageway. There is minimal potential for conflict with pedestrians.*
- *The approved access is a sharp right-turn which cannot be carried out in a single-manoeuvre, the sharp turn through the car park results in blind spots for drivers in an area where patrons of the PH are most likely to park and walk into the pub. The sharp turn means vehicles will be stalled and potentially backing up on to the highway while waiting for drivers to turn right. There is a much higher potential for conflict with pedestrians in the car park area or near the PH entrance.”*

This application was withdrawn following officer concerns about the unsafe form of the development and noise and disturbance to occupants of the hotel bedrooms which is part of the Charnwood Arms complex. Whilst the application was withdrawn, the above is useful in understanding the context for the submission of the current application and the problems with the proposed access as identified by the applicant.

In respect of the current proposal, the site is located off a B Class road, B585 Beveridge Lane, which is a dual carriageway, subject to the national speed limit (NSL). The proposed

development would utilise an existing access off the B585 Beveridge Lane onto an unadopted, private road which serves a public house, restaurant and hotel (Charnwood Arms). The access route to the HGV storage area passes through the car park for the Charnwood Arms. This requires HGV's turning into the site from B585 Beveridge Lane to make an almost immediate right-turn within the car park area to access the HGV storage area. The County Highways Authority advise that the car park is private land, over which the County Highways Authority has no jurisdiction.

**Plan showing proposed access route into the site up to highway boundary:**



**Aerial Photograph showing the access route into the site with red arrows. Egressing vehicles use the same route and exit the site as indicated with the yellow arrow:**



**Photograph of site access looking westwards along Beveridge Lane:**



**Photograph of site access looking eastwards into the site from the western side of the access off Beveridge Lane:**

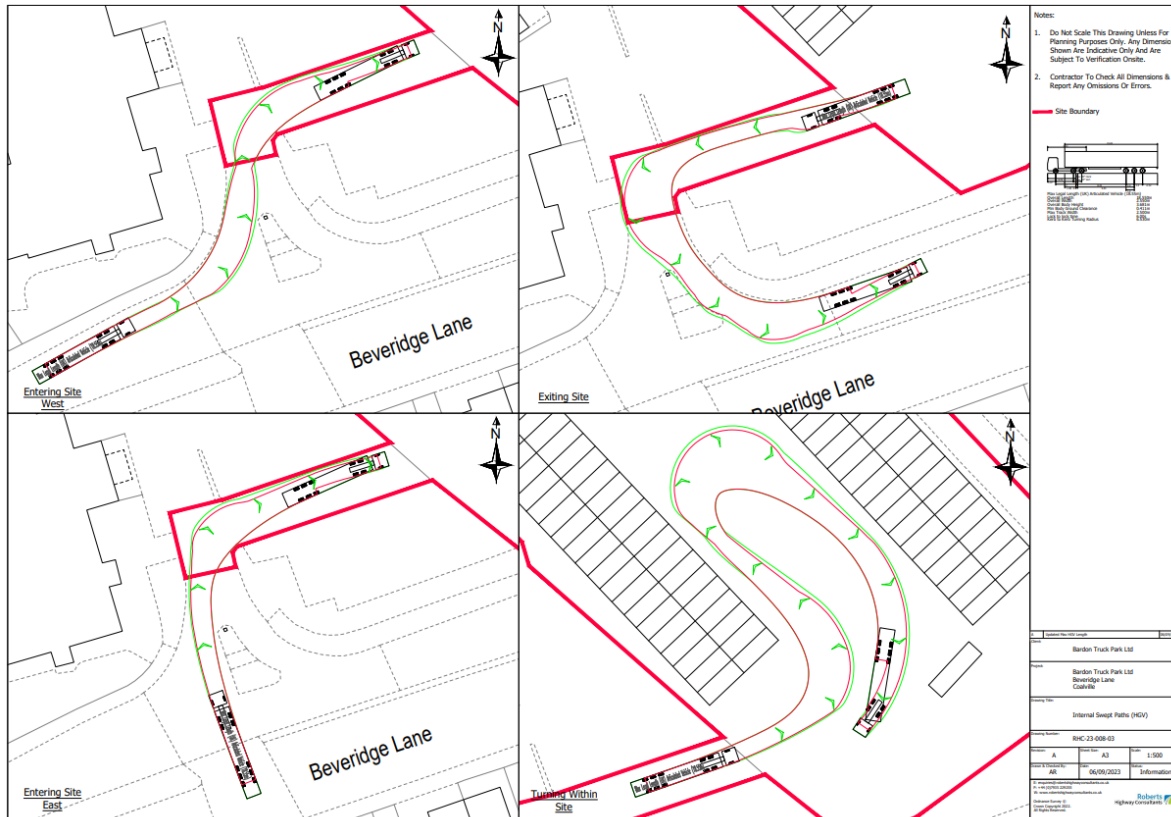


Whilst the County Highways Authority advise that they would normally seek to resist the intensification of the use of an existing access onto a B road with speed limits above 40mph or where measured vehicle speeds are in excess of 40mph, when having regard to the former use of the site as a nightclub, the wider use of the access road, and the proximity of the roundabout junction of B585 and A511 where approach speeds will be lower than the posted National Speed Limit, no objection is raised by the County Highways Authority in relation to the shared use of the existing access, in principle.

During the application additional information was sought by the County Highways Authority. The red line boundary of the site has been amended due to the original red line not abutting the public highway. Details of swept paths for the largest vehicles anticipated to use the proposed access (having regard to recent changes to the UK maximum legal articulated HGV

specification) and a highway mitigation strategy detailing signage/road markings in the public highway have been provided by the applicant at the request of the County Highways Authority.

**Swept Paths for HGV's:  
(Vehicles shown have a with maximum legal length of 18.55m and width of 2.55m)**



The County Highways Authority advises that the above drawing demonstrates a swept path for vehicles up to the size identified above. Having reviewed the drawing, the County Highways Authority note that there is very little clearance in places between the wheel track and kerb lines at the site access junction with B585 Beveridge Lane. However, the County Highways Authority is satisfied that minor amendments could be made to the kerb lines within the highway in this location to provide suitable clearance for HGV's and advise that this should be secured by way of a planning condition. It is noted that concerns have also been raised by third parties about damage to kerb lines within private land within the Charnwood Arms car park itself, but these are on private land, outside the jurisdiction of the County Highways Authority and are not considered to be relevant to consideration of matters of safety within the public highway.

The County Highways Authority has been made aware of the concerns raised by local residents/the Charnwood Arms and has reviewed the representations made including RGP Traffic and Transport Report and accompanying CCTV Survey Evidence and identifies the key issues as follows:

- Risk of HGV-pedestrian conflict
- HGVs stacking onto the adopted highway and within the car park
- Illegal right-turn manoeuvres at the site access junction with B585 Beveridge Lane
- Risk of vehicle-vehicle conflict within the site and on B585 Beveridge Lane

In respect of HGV stacking and risk of conflict on B585 Beveridge Lane, the County Highways Authority advises that:

*“Having reviewed the submitted RGP report and accompanying CCTV footage, it is acknowledged that evidence has been provided to demonstrate vehicles waiting within the adopted highway extents. However, it is important to note that this, whilst adopted highway, is within the site access. No evidence has been submitted to demonstrate that any stacking occurs at the site access which is detrimental to the operation of B585 Beveridge Lane or that causes an obstruction within the running carriageway. The LHA does acknowledge Clips 003 and 004 of the submitted report. Both of these clips demonstrate situations which are not ideal. However, they do not provide evidence that demonstrates an unacceptable risk to highway safety, or severe harm to the highway network. Therefore, the LHA does not consider that a reason for refusal could be substantiated.”*

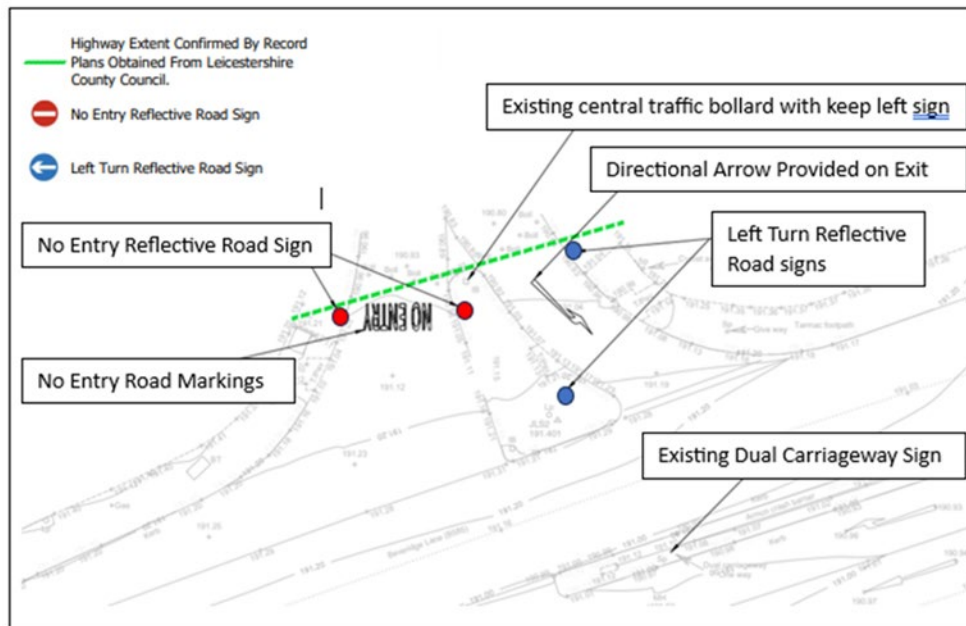
Members are advised that links to clips 003 and 004 as referred to above, can be viewed on the Council’s website through links provided in the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd. For Member’s information, clip 003 shows an HGV entering the site and having to wait for another exiting the lorry park. The stationary HGV entering the site occupies the adopted highway upon entrance to the site, with some marginal chassis overhang into the live eastbound carriageway, until the vehicle can move through the car park. Clip 004 shows the simultaneous entrance and egress of HGVs with the entering HGV driver seemingly managing the situation by slowing down when turning across the eastbound carriageway of Beveridge Lane to avoid the path of the exiting HGV.

Regarding illegal right-turn manoeuvres at the site access junction with B585 Beveridge Lane, the County Highways Authority acknowledges that the RGP report and accompanying CCTV footage demonstrate that there were 14 recorded incidences of the illegal right-turn out of the site onto Beveridge Lane between 15th - 21st May 2023. These illegal manoeuvres onto a Class B dual carriageway, that is subject to a national speed limit, are of significant concern to the County Highways Authority in terms of highway safety. Firstly, because they are in contravention of the signed one-way system on Beveridge Lane (and an offence under S36 of the Road Traffic Act 1988). Secondly, because the photographic evidence provided demonstrates that to perform this manoeuvre, vehicles exited the site on the wrong side of the carriageway, and indeed the wrong side of the existing central refuge, then proceeded through a gap in the central reserve which is only provided for the right turn into the site.

To address the above concerns, the applicant has put forward a plan to address the illegal manoeuvring out of the site in the form of a highway mitigation strategy comprising new road markings and signage and this can be seen in the image below. The County Highways Authority has considered the submitted mitigation strategy and considers that the strategy provided is sufficient to address the problem of illegal right turn manoeuvres out of the site. These works would need to be secured by condition and a legal agreement with the County Council to secure the financial contribution required towards the provision of a Traffic Regulation Order in enable the provision of a No Entry restriction at the site access junction with the B585 Beveridge Lane. The County Highways Authority has confirmed that all the signage and road markings would be within the public highway and therefore, subject to a condition and legal agreement, can be implemented.



**Plan showing proposed Highway Mitigation Strategy**



**Please note that the symbols and text on this drawing above have been enlarged by officers to ensure that the information can be seen within this report. The true version of the drawing is available to view on the Council’s website.**

Regarding concerns regarding HGVs overrunning internal car park kerbs and potential conflicts occurring within the car park, these are noted by the County Highways Authority, but they advise that these matters would take place on private land and are not within the jurisdiction of the County Highways Authority to resolve. Overall, subject to conditions and a developer contribution, the County Highways Authority raises no objection to the proposals on the grounds of highway safety.

When having regard to the advice provided by the County Highways Authority in respect of matters concerning the public highway and highway safety, it is not considered that the impacts of the development on highway safety would be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, subject to conditions and developer contributions, the proposed development is considered acceptable for the purposes of Policies IF4 and IF7 of the adopted Local Plan and would not conflict with the provisions of paragraph 115 of the NPPF.

**Highway Safety on Private Land**

Concern has been raised by objectors about the interpretation of ‘highway safety’ by the County Highways Authority and legal advice has been sought in this regard.

The common law definition of highway is ‘*A highway is a way over which there exists a public right of passage, that is to say a right for all His Majesty’s subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.*’ (Halsbury’s Laws 21[1]).

Highways can be created by statute or common law following a period of uninterrupted use and for common law, and section 31(1) of the Highways Act 1980 specifies a period of uninterrupted use of 20 years. A highway can be a road or a footpath. It does not have to be a drivable route.

A footpath is a path that goes between two properties as opposed to a footway which is on the side of a road. There are three types of highways, and these are set out below:

- A road or footpath maintainable at the public expense – adopted road
- A road or footpath maintainable at private expense – unadopted road
- A private street/footway or footpath (where the public has no rights to use the land unless permission is given by the owner and where the private street/footpath is gated to prevent traffic for at least one day a year).

When having regard to the above definitions, the Council's solicitor advises that any person would have the right to regard the road which passes in front of the public house and restaurant down to the hotel accommodation as a highway. There are no gates which prevent access throughout the year or a sign setting out that the road is not a highway and, therefore, the Council's solicitor considers that the road passing in front of the pub/restaurant/hotel to be an unadopted highway.

Paragraph 114(b) of the NPPF requires that 'safe and suitable access to the site can be achieved for all users' and paragraph 115 requires that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'. The NPPF does not define highway safety and, therefore, notwithstanding the jurisdiction of the County Highways Authority consideration should be given to the highway safety impacts of the development on all types of highways including the unadopted highway passing through the site.

The application proposes to access the site via an unadopted highway and through an existing car park serving a public house/restaurant and hotel where there is vehicular activity into and out of the car park (including vehicles reversing) and pedestrian movement to and from the public house entrance/hotel reception. There is no dedicated pedestrian pathway through the car park and as a result, vehicles and pedestrians share the unadopted highway and circulation space within the car park. Lorry movements would occur 24 hours a day which, therefore, includes the operational hours of the neighbouring business and as a result there is potential for conflict between vehicles, and between vehicles and pedestrians.

The manoeuvring of lorries into and out of the lorry park requires a tight turning movement where the lorry enters or leaves the car park from or to the unadopted highway. The difficulty of undertaking this manoeuvre in accordance with the swept path details provided is evidenced on site by damaged kerbstones as vehicles overrun the grassed landscaped area on entrance to the car park. It is noted that this landscaped area is used as a pedestrian refuge within the CCTV footage provided by the neighbouring business. In navigating this manoeuvre, the lorries may need to accommodate moving vehicles leaving the site from the car park/lorry park, vehicles manoeuvring in and out of parking spaces and pedestrians passing through the car park within the circulation space. Video footage has been provided showing that these conflicts with other vehicles and pedestrians occur on the unadopted highway and within the car park where one has to give way to the other.

Overall, when having regard to the advice of the County Highways Authority whilst it is not considered that there would be an adverse impact on highway safety within the public highway, officers considered that the safe use of the unadopted highway within the site by all users would be adversely affected by the development proposals. When having regard to the proximity of the site to the public house entrance, the difficult nature of the HGV manoeuvres through the unadopted highway and car park and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe

form of development that would not provide safe access for all users of the unadopted highway passing through the site, contrary to highway safety. Approval of the proposal would be contrary to the provisions of paragraphs 7, 8, 114(b), 115, 116 of the NPPF.

### **Other Matters**

In response to concern raised that the owner of the site had not been correctly notified by the applicant, a revised certificate of ownership has been completed during the course of the application and notice has now been served on the correct land owner.

With respect to comments made about the land deeds for the site requiring certain actions in respect of access, the courts have determined over the years that land ownership and the contents of deeds aren't planning issues, and these cannot be considered in the determination of any planning application. If the deeds for the land specify that a certain action must happen then this needs to be addressed by the individual outside of the planning system.

Concern has been raised about litter and waste on the site attracting vermin, but this is covered by separate Environmental Health legislation and, therefore, is not relevant to the determination of the application.

The application details that foul drainage is to be disposed of via a septic tank, but the agent has confirmed during the application that that this is incorrect and that the foul drainage is currently disposed via the sewer from the former nightclub on the site.

### **Overall Planning Balance, Contribution to Sustainable Development and Conclusions**

#### **Economic Objective:**

The operation of the existing truck park business would in itself contribute to growth and the economic development of the area and would contribute to the supply of much needed overnight lorry parking facilities within the local and wider area. However, having regard to evidence provided on behalf of the operators of the adjacent pub house, restaurant, and hotel in respect of public safety and customer satisfaction, the proposal could also serve to impact negatively on the business operations of the public house/restaurant and hotel operating at the site.

#### **Social Objective:**

Whilst concerns have been raised in respect of the effects on the operation of the adjacent public house, restaurant and hotel, it is considered that the most significant implications in respect of the social objective relate to the impacts on the objective's need to foster safe places; having regard to the issues in respect of pedestrian safety within the car park, it is considered that the scheme would perform poorly in this regard.

#### **Environmental Objective:**

The use of the site would result in additional noise impacts but as set out above, it is not considered that these impacts would be significant, and the scheme is not considered unacceptable in this regard. It is also considered that the development would have an acceptable visual impact on the character and appearance of the locality and the surrounding countryside.

For the reasons set out within the assessment above, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and, when having regard to the three objectives of sustainable development, the application would not be considered to represent sustainable development overall and therefore, refusal is recommended.

It is also recommended that enforcement action be taken to require the cessation of the use of the lorry park on the site and the restoration of the site to its former condition.