20th June 2023

Our Ref: ADM.LPC.2678
Your Ref: 17/02116/FUL

Economic Development & Planning
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER

Dear Sir/Madam

Proposed Use of Building at
Top Yard, Malmesbury Road, Leigh, SN6 6RH
Permitted for the Storage of Lorries and Trailers and Operations ancillary to such use to be used as a flexible use for the permitted use or for the repair and restoration of cars.

Further to the meeting at the above site between my client and your Council's Enforcement Officer, Allan Brown, I am writing further to my email to him to apply for the above use of the building and land to its front, for a flexible use as the one permitted by decision reference 17/02116/FUL or for the use by Mr D Kerger, for repairing and restoring motor cars, primarily classic and specialist cars.

As the Enforcement Officer stated in an email to the occupier of the building, its use is conditioned to the storage of lorries and trailers and for operations ancillary to this use only (condition 4 applies). The reason for this is that the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case. Before setting these out, it should be noted that the building was erected on part of a larger area of land that has a Certificate of Lawful Existing Use or Development for the parking of 5 lorries and 2 trailers (decision reference 16/11482/CLE). The use that was permitted is not subject to any restrictions upon the hours of working, the noise omitted or the illumination from the building and therefore, it could be used 24 hours a day, 7 days a week for working on the 5 lorries and 2 trailers kept within the yard, as such work would be ancillary to the parking of the lorries. Whilst such a condition was appropriate when the building was first erected and used, circumstances have now changed and the owner, who lives nearby, lets the building to the current occupier, Mr Kerger, for him to carry out his one-man business. My client understands that a complaint has been lodged against the occupier for working at night and making noise – however, if large HGVs were worked on within and outside the building, there would be far more noise created and a greater potential for disturbance than is the case with the present occupants.

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Planning Policy Context

The Development Plan that applications must be determined in accordance with unless there are overriding materials considerations to the contrary is the Wiltshire Core Strategy, adopted in 2015. Whilst there is a policy that supports rural life (CP48), there is no reference to the specific type of use now proposed. However, the policy does state that proposals to re-use rural buildings for employment use will be supported where the building is structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building. It adds that the use should not detract from the character or appearance of the landscape and not be detrimental to the amenities of residential areas, neither of which apply in this case. The policy also states that the building should be served by an adequate access and infrastructure, with cars being smaller and quieter that the lorries that could be worked on in this building.

The National Planning Policy Framework (NPPF) sets out the government's policies towards development proposals and says that the sustainable growth and expansion of all types of business in rural areas should be encouraged. It also acknowledges that sites for local business needs may have to be found outside settlements, as in this case, with previously developed land (such as this) encouraged.

In view of the above, there is policy support for the re-use of buildings at national and local levels and the proposal should, therefore, be considered favourably.

Discussions with the operator of the business using the premises confirms that more than 50% of his work is involved with restoration projects, his website showing that this is primarily on VW Beetles and other specialist cars. This type of work cannot be turned around in one day, like many car repairs and servicing operations but takes much longer. There is not, therefore, the constant arrival and departure of customer vehicles. However, he does get asked to repair local residents vehicles and also agricultural machinery of local farmers, which he is able to do. He is committed to his work and the projects that he is engaged on, which means that he does work long hours, on occasions. However, he does this in a way that does not cause disturbance or a nuisance to any nearby residents. Certainly, his business does not use hydraulic rams and equipment that would be necessary for working on lorries and trailers.

The description of this application seeks a flexible permission between the permitted use for this building for the storage of lorries and trailers and operations ancillary to such use or to be used for the repair and restoration of cars. The flexible use that is sought will allow a change between the two specific uses without the need for making further applications. This course of action is in compliance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, which allows flexibility for a period of 10 years. Thus, if Mr Kerger's business was to cease, the use would then revert to the one that was permitted by decision notice

reference 17/02116/FUL without the need to make a further planning application.

In view of the above, I hope that this application will be considered favourably and assessed against the fall-back situation of using the building for working on HGVs with no restrictions upon noise or hours of working. There is the opportunity to impose conditions on working practices so long as they would be reasonable and related to the proposed use, which for a single person business is not a 9am - 5pm operation. It is respectfully suggested that discussions can take place to resolve mutually acceptable conditions of permission.

Should the case officer wish to discuss any aspects of this application, please do not hesitate to contact me.

Yours faithfully

Andrew Miles