

# Proposed Change of Use of Land For The Display of Motor Vehicles For Sale

## KEY INFORMATION

**Ward** North East

### Address

2 Jack Martin Way  
Claverhouse East Industrial  
Estate, Dundee

### Applicant

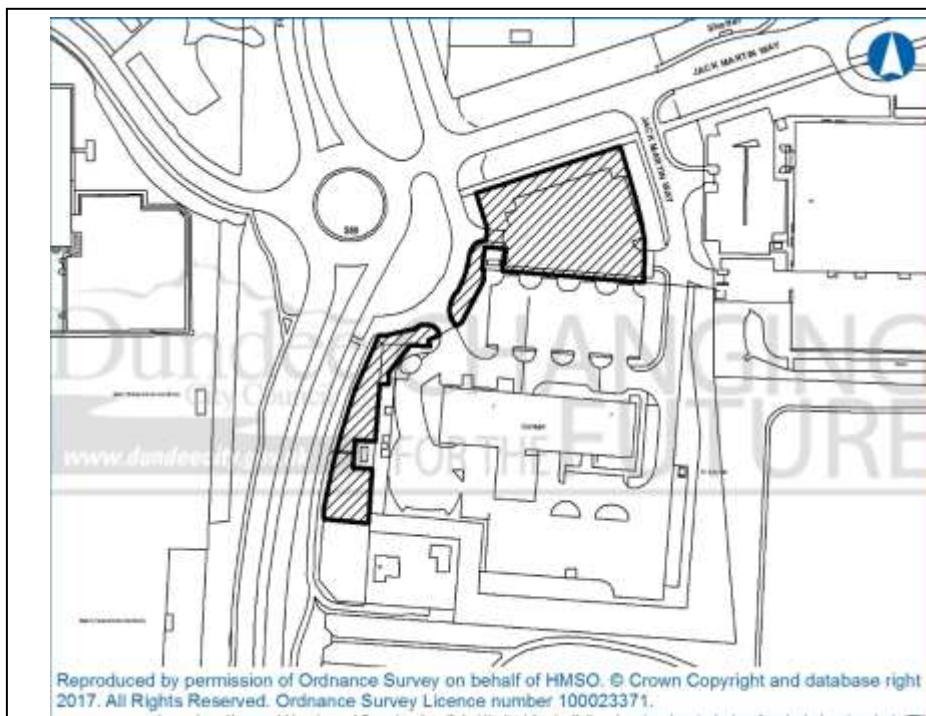
Struan Motors  
Jack Martin Way  
Dundee DD4 9FF

### Agent

Bill Miller  
2 Dundee Road  
Perth PH2 7DW

**Registered** 17 Feb 2017

**Case Officer** Claire Myles



## SUMMARY OF REPORT

- The application proposes a change of use of land for the display of motor vehicles for sale.
- The proposal site is within an area occupied by an existing car sales and repair business in a Principal Economic Development Area at Claverhouse East.
- A small area of soft landscaping within the application site is within Council ownership and this area is also designated as open countryside in the Dundee Local Development Plan 2014.
- The application was the subject of neighbour notification and one letter of objection has been received which raises issues in relation to amenity, flooding and a non-conforming use.
- The application is being referred to the Development Management Committee at the request of an Elected Member.
- More details can be found at <http://idoxwam.dundeecity.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

## RECOMMENDATION

The application satisfies the requirements of Policy 7, 42 and Policy 47 and is contrary to Policy 1 and Policy 32 of the Adopted Dundee Local Development Plan 2014. There are material considerations that would justify the approval of this application. The application is therefore recommended for APPROVAL subject to conditions.

## 1 DESCRIPTION OF PROPOSAL

- 1.1 The application proposes a change of use of land for the display of motor vehicles for sale. It is proposed that a porous paved area is created on an area of soft landscaping to the north and west of the application site to display motor vehicles for sale. An area of hardstanding currently used for the display of used cars to the north of the application site also forms part of the proposal.



Figure 1 – Proposed Site Layout

## 2 SITE DESCRIPTION

- 2.1 The application site is located adjacent to the southbound carriageway of the A90 Trunk Road. The site sits in a prominent position and forms part of Struan Motors showroom and workshops located on Jack Martin Way, Claverhouse East Industrial Estate. Access to the site is from a spur road off Emmock Road which in turn is linked to the A90 by a roundabout.

- 2.2 The car showroom and workshops are set in a compound surrounded by a security fence and includes extensive areas of parking to the front (north) and a service yard to the rear (south). Landscaping has been provided around the site.

- 2.3 To the immediate west of the application site is a public shared footway/cycleway adjacent to the A90 Trunk Road, to the east is land allocated within Claverhouse Industrial Estate and Fintry Park. To the immediate south of the site is a dwelling house and south of the dwelling house is an area of open space and Fintry housing estate.

- 2.4 The proposal site is located within a Principal Economic Development Area.



Figure 2 – Proposed Landscaping

## 3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance:

### **DUNDEE LOCAL DEVELOPMENT PLAN 2014**

Policy 1: Principal Economic Development Area

Policy 7: High Quality Design

Policy 32: Development Within the Open Countryside

Policy 42: Sustainable Drainage Systems

Policy 47: Environmental Protection

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

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## 4 SITE HISTORY

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- 4.1 Planning Application 00/25003/D for a change of use, extensions and alterations to provide vehicle adaption/conversion and repair workshops and motor retail was approved subject to conditions on 24 January 2001.
- 4.2 Planning application 01/03045/DADV for the erection of illuminated signage was approved on 25 April 2001. A similar application 06/00483/ADV was approved on 7 July 2006.
- 4.3 Planning application 02/00451/ADV for the installation of various non-illuminated car park signs, internally illuminated welcome sign and banners was approved on 4 October 2002.
- 4.4 Planning application 08/00064/FUL to replace the existing boundary fence was approved subject to conditions on 30 June 2008.
- 4.5 Planning application reference 08/0069/COU for a change of use to existing building provide a showroom and proposed elevational alterations was approved subject to conditions on 22 April 2008.
- 4.6 Planning application reference 08/00067/FUL for a new workshop was approved subject to conditions on 30 June 2008.
- 4.7 Planning application 10/00505/ADV for the erection of fascia sign and pole sign was approved 23 September 2010.
- 4.8 Planning application 13/00384/ADV for the erection of signage was approved on 12 September 2013. A similar application 16/00271/ADV was approved on 5 May 2016 and a further one 17/00096/ADV was approved on 11 April 2017.
- 4.9 Planning application 15/00542/FULL for the erection of workshop extension and change of vacant office space to form a car sales showroom with elevational alterations was approved subject to conditions on 29 September 2015.
- 4.10 Planning application reference 15/00543/FULL for the installation of 2.4.m high security fencing on the site boundary and the erection of a satellite used car sales office was approved subject to conditions on 29 September 2015.
- 4.11 Planning application 16/00271/ADV for the erection of signage was approved on 5 May 2016 and a further one, 17/00096/ADV, was approved on 11 April 2017.

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## 5 PUBLIC PARTICIPATION

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- 5.1 The application was the subject of neighbour notification and 1 letter of objection has been received. This refers to a breach to Policy 1 as there is no classification for car display areas; that the land was originally a green belt with trees/bushes and these have been removed over time to allow for vehicle display; amenity issues in relation to overlooking and the visibility of the motor vehicles and noise associated with the commercial activity of selling cars; difficulties with access to dwelling house and a long standing drainage problem.

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## 6 CONSULTATIONS

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- 6.1 **Transport Scotland** – as the proposal has the potential to affect the A90 Trunk Road Transport Scotland has been consulted and has no objection to the proposal.

## 7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

### THE DEVELOPMENT PLAN

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

### DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 1 Principal Economic Development Areas –**
- 7.3 Principal Economic Development Areas are of city wide significance and as such will be safeguarded for Class 4 “Business”, Class 5 “General Industry” and Class 6 “Storage and Distribution”. Uses other than these will be resisted.
- 7.4 The proposal for a change of use of land for the display of motor vehicles for sale is non-classified “Sui Generis” under the Use Classes (Scotland) Order 1997. The proposal therefore fails to comply with Policy 1.
- 7.5 **The proposal contravenes Policy 1.**
- 7.6 **Policy 7: High Quality Design** – this policy requires all development to contribute positively to the quality of the surrounding built and natural environment and to respect the character and amenity of the place. The policy adopts a design criteria approach which requires development proposals to consider and respect site topography and any supporting important landmarks, views or skylines; contribute to a sense of identity; complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours; existing buildings structures and natural features that contribute to the local townscape should be retained and sensitively integrated into the proposals.
- 7.7 The proposal is for a change of use land for the display of motor vehicles for sale. The proposal site is an area of hardstanding currently used for the display of used cars located to the north of the application site and an area of soft landscaping to the north and west of the application site. No physical change is proposed to the existing area of hardstanding and a porous paved area is proposed on the area of soft landscaping. The proposal is satisfactory in respect of design.
- 7.8 In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request full details of the materials and finish of the proposed paved vehicle display area to be created on the existing area of soft landscaping to the north and west of the application site.
- 7.9 An extension to an area of planting on the southern boundary of the application site is proposed as part of the development. This green buffer has been sensitively designed to

mitigate any potential amenity issues between the proposal site and the dwelling house to the south. In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request full details of the landscape planting proposed on the southern boundary of the application site and a maintenance schedule is submitted to the Council for written approval prior to the commencement of any works on site.

7.10 **The proposal satisfies Policy 7.**

7.11 **Policy 32: Development Within the Open Countryside** – it is the approach of the Local Development Plan that new development in the open countryside, outwith those areas designated for such in the Plan, will only be permitted in specifically defined circumstances and that there will otherwise be a general presumption against all such development.

7.12 A small area of soft landscaping forming part of the proposal site falls within an area designated as open countryside on the Proposals Map in the Local Development Plan. Policy 32 states that within the areas designated as Open Countryside on the Proposals Map there will be a presumption against all new development unless:

- 1 the proposed development consists of no more than one additional building in a group of up to seven buildings or by two additional buildings in a larger group; or
- 2 the proposed development involves the restoration of an existing stone building of architectural merit and that has four walls surviving to wall head height; or
- 3 the proposed development is supported by an agricultural justification.

7.13 The proposal is for a change of use of an area of soft landscaping to create a paved area for the display of motor vehicles for sale. The criteria set out in Policy 32 cannot therefore be satisfied.

7.14 **The proposal contravenes Policy 32.**

7.15 **Policy 42: Sustainable Drainage Systems** – Sustainable Urban Drainage Systems (SUDS) are a well-recognised method of dealing with surface water in an environmentally friendly and economical manner. This policy requires new development to be treated by SUDS except for single houses or where discharge is to coastal waters. SUDS should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. In addition, proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for habitat creation or enhancement through measures such as the formulation of wetlands or ponds.



Figure 3 – Photo of Site

7.16 The proposal involves creating an area of hardstanding and a drainage report in respect of this work has been submitted by the applicant as the proposal site is within an area at risk from surface water flooding. The drainage report demonstrates that the principle of the development is acceptable. However, in the interests of sustainable surface water management, should members be minded to grant planning permission, it is recommended that a condition is attached to request a detailed surface water drainage plan and maintenance

schedule is submitted to the Council for written approval prior to the commencement of any works on site.

- 7.17 **The proposal satisfies Policy 42 subject to a condition being attached.**
- 7.18 **Policy 47: Environmental Protection** – all new development proposals that would generate noise, vibration or light pollution are required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.
- 7.19 The small scale nature of the proposal would not result in any significant noise impact and an unsatisfactory level of disturbance on the surrounding area. The proposed development has been sensitively designed to include an extension to boundary planting to mitigate any potential amenity issues for the residents of the dwelling house to the south of the application site.
- 7.20 Should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request full details of the landscape planting proposed on the southern boundary of the application site and a maintenance schedule is submitted to the Council for written approval prior to the commencement of any works on site.
- 7.21 There is a public shared footway/cycleway to the west of the proposal site adjacent to the A90 Trunk Road which is also the main access to the dwelling house to the south of the proposal site. Should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to ensure that vehicles accessing the proposed display areas shall not drive or park on the adjacent public shared footway/cycleway.
- 7.22 **The proposal satisfies Policy 47.**
- 7.23 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**

## **OTHER MATERIAL CONSIDERATIONS**

The other material considerations to be taken into account are as follows:

### **A - JUSTIFICATION FOR A DEPARTURE FROM POLICY 1 AND POLICY 32 OF THE DUNDEE LOCAL DEVELOPMENT PLAN 2014**

- 7.24 The principle of this site being used for a non-conforming use, car sales, has been established. A departure from local development plan policy was allowed when the Council granted planning permission in 2001 to Struan Motors to operate part of the site as a car sales business (Planning Application 00/25003/D). The Council's position to allow a departure from local development policy was consolidated in 2008 by the granting of planning permission for a change of use to an existing building to provide a car showroom (Planning Application 08/00069/COU) and again in 2015 when permission was granted for the erection of a workshop extension and change of vacant office space to form a car sales showroom (Planning application 15/00542/FULL).
- 7.25 Although the current proposal fails to comply with Policy 1: Principal Economic Development Areas, the small scale nature of the proposal permitting a change of use of land for the display of motor vehicles for sale, adjacent to an existing car showroom and workshops will have no perceptible impact on the Principal Economic Development Area at Claverhouse East. In this instance, the strategic aim of Policy 1 would be unaffected by the proposal.

- 7.26 A further consent would not set a precedent for other departures from Policy 1 on other economic development sites since this site is already being used for car sales.
- 7.27 Two small tear shaped areas of soft landscaping within the proposal site are designated as open countryside. This forms part of a long, narrow strip of soft landscaping designated as open countryside adjacent to the boundary of the Principal Economic Development Area and the A90 Trunk Road which is residual from a previous change of use of land and no longer functions as open countryside. The loss of this area of soft landscaping would have no detrimental impact on the wider designation. In this instance, the strategic aim of Policy 32: Development within the Open Countryside would be unaffected by the proposal.
- 7.28 On balance it is considered that there is sufficient weight in the material considerations, outlined above, to justify a departure to Policy 1 and Policy 32 in this instance.

### **B - VIEWS OF OBJECTORS**

- 7.29 The objection to the proposed development refers to a breach to Policy 1 as there is no classification for car display areas; that the land was originally a green belt with trees/bushes and these have been removed over time to allow for vehicle display; amenity issues in relation to overlooking and the visibility of the motor vehicles and noise associated with the commercial activity of selling cars; difficulties with access to dwelling house and a long standing drainage problem.
- 7.30 In respect of the issues raised by the objector:
- the principle of this site being used for a non-conforming use, car sales, has been established as outlined in the report above;
  - there is no evidence of trees/bushes on the site and the area has never been designated as a green belt. As outlined in the report above, a long, narrow strip adjacent to the boundary of the Principal Economic Development Area and the A90 Trunk Road is designated as open countryside and this is residual from a previous change of use of land and no longer functions as open countryside;
  - the small scale nature of the proposal would not result in any significant noise impact and an unsatisfactory level of disturbance on the surrounding area;
  - it is recommended that a condition is attached to any consent granted to ensure that cars accessing the proposed display areas shall not drive or park on the adjacent public shared footway/cycleway which is also the access to the dwelling house; and
  - a drainage report in respect of this work has been submitted by the applicant as the proposal site is within an area at risk from surface water flooding. In order to ensure that the proposed development does not exacerbate an existing situation a condition is recommended to request a detailed surface water drainage plan and maintenance schedule.
- 7.31 The concerns of the objector have been considered and addressed in the report above and are not of sufficient weight to justify refusal of the application.
- 7.32 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

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## 8 CONCLUSION

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- 8.1 The proposal satisfies the requirements of Policy 7, Policy 42 and Policy 47 and fails to satisfy the requirements of Policy 1 and Policy 32 of the Development Plan. There are material considerations of sufficient weight that would justify approval of planning permission. It is therefore recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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- 9.1 It is recommended that consent be GRANTED subject to the following conditions:
- 1 Prior to the commencement of work on site, details of the proposed finishing materials of the paved display area hereby approved shall be submitted to the Council for written approval. Thereafter, the proposed development shall be finished in strict accordance with the details approved by this condition.
  - 2 Full details of new planting and landscaping and an associated maintenance schedule shall be submitted to and approved by the planning authority prior to the commencement of development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.
  - 3 Prior to the commencement of any works on site, a detailed surface water drainage/SUDs design including drawings, calculations, full modelling, simulation results, design risk assessment and signed Dundee City Council Design and Check Certification shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first use of the paved display area hereby approved.
  - 4 Prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDs features shall be submitted to Dundee City Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.
  - 5 Vehicles accessing the proposed display areas shall not drive or park on the adjacent public shared footway/cycleway and access running in parallel to the A90 Trunk Road to the west of the proposed development hereby approved.

### REASONS

- 1 In the interests of visual amenity.
- 2 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area and privacy.
- 3 In the interests of flood prevention.
- 4 In the interests of flood prevention and visual amenity.
- 5 In the interests of vehicle and pedestrian safety.