

GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Committee:	Planning
Date:	8 th February 2022
Address/Location:	Land at the rear of Vauxhall Terrace, Gloucester
Application No:	18/01244/FUL
Ward:	Barton and Tredworth
Expiry Date:	14 th December 2021
Applicant:	Mr Roger Lewis, Carlton Motors Ltd
Proposal:	Use of land including vehicular accesses to Vauxhall Terrace and Millbrook Street (via Tudor Lane) for vehicle repair business (Use Class B2). Demolition of existing building and construction of a replacement building for use as a vehicle repair workshop
Report by:	Adam Smith
Appendices:	Existing site plan Plan from 1980 legal agreement Proposed site plan

1.0 SITE DESCRIPTION

- 1.1 The application site comprises a parcel of land to the north of Barton Street, within the block enclosed by Sinope Street, Widden Street and Millbrook Street. The site backs onto the rear of residential properties at Widden Street to the north and the North west. To the south west appear to be a building used for storage and residential units further round to the south west. To the south is Vauxhall Terrace, beyond which is the rear of properties on Barton Street, and there are accesses to the rear of these properties. The existing building here has a wide door access onto Vauxhall Terrace and there is another gated access from the end of Vauxhall Terrace into the south west part of the site (currently shut and hoarded off with panels). To the immediate east of the site is storage building beyond which are residential properties fronting Vauxhall Terrace and Millbrook Street. There is a private road 'Tudor Lane' linking from the north of the site to Millbrook Street. There is an existing gated access off Tudor Lane into the site here. There is a footway on the north side of Tudor Lane which ceases before the site entrance. Residential properties at Widden Street back onto Tudor Lane, several of which have rear access onto the lane including vehicular accesses, as does the storage building on the south side of the lane adjacent to the application site.
- 1.2 There also appears to have been an access to the site from Barton Street to the south west (under an oversail), which appears to be the one mentioned in representations, but the applicant does not propose to use this access point and it is not included within the red line of the application site. Furthermore it is apparent that it has been closed off with fencing and a pedestrian gate.
- 1.3 The application site comprises an open yard and two buildings in poor condition. It includes an existing building of brickwork and corrugated steel roof construction at the southern Vauxhall

Terrace edge of the site between 3.1 and 4.4m in height. There is another single storey building at the north edge of the site. In general, the site is in a poor physical and visual condition although it appears to have been tidied up somewhat by the applicant in recent years judging from previous images of the site. The current use of the site merits further detailed consideration and is discussed further below.

- 1.4 This application has been called to Planning Committee by a ward Councillor, citing them having received objections from local residents, absence of recent use, impacts on amenity, increase in traffic flow along the private Tudor Lane and options for an alternative access on Vauxhall Terrace, damage to properties, extent of use of the site, and legal right of way over Tudor Lane.

2.0 PROPOSED DEVELOPMENT

- 2.1 The application seeks planning permission for the demolition of the existing building at the south of the site and its replacement with a new workshop. The current workshop is of dual pitch design measuring approximately 12.6m wide by 17.6m deep, with a maximum height of 4.4m at the western end, 3.1m at the central valley. The proposed workshop would be L-shaped broadly on the footprint of the existing building and the previous part of the building that projected to its north east and has been removed. It would be constructed in blockwork with a corrugated steel roof. It would be of pitched roof design measuring at maximum 12.6m wide (northern projection 5.6m), and maximum 30.9m deep including the northern projection (18.1m for the main part) with an eaves height of 5.4metres and ridge height of 7.4metres (the northern projection would have a slightly lower ridge of 6.7m high). It would include access doors on the front (north-facing) elevation and windows and a pedestrian door in the side (west elevation). It is understood that the main reason for the proposal is to have a greater internal ceiling height to allow the use of car hoists. The proposals also included the rebuilding of the 3.3m high wall at the east side of the site associated with the buildings although in the latest design that would be effectively subsumed within the side of the northern projection. The proposal that was previously referred to in the application to rebuild an outbuilding are no longer included in the development (the northern projection would now effectively take its place).
- 2.2 The application was originally submitted solely for the proposed building with the applicant considering that the wider site already had planning permission for vehicle repair use. The application has been amended to include the use of the wider site for vehicle repair in association with the new building (use class B2) within the description of development. The analysis of the site history below sets out the basis for the use of the wider site now being explicitly included in the application. The proposal would include vehicular accesses both from Vauxhall Terrace and Millbrook Street via the private Tudor Lane. The applicant has confirmed that the proposal would have 3 staff, and it is understood to be an existing Gloucester business seeking to relocate. The proposed layout also includes space for parking cars involved in the business, the application shows 25 spaces. The applicant has set out that the business would deal with cars and light vans.

3.0 RELEVANT PLANNING HISTORY

3.1

Application Number	Proposal	Decision	Decision Date
03/EDP/1266/79 (Relates to the majority of the site on the northern side)	Retention of use of land for storage/parking of cars, retention of building for use as vehicle polishing/finishing shop, use of existing building as paint store at land off Millbrook Street and at rear of Vauxhall Terrace	Granted subject to conditions and legal agreement	25.6.80
13666/01 (Relates to the south west corner of the site and additional land to Barton Street)	Change of use from retail to joinery workshop and sales area	Granted subject to conditions	9.3.83

11/01284/FUL (Relates to all of site other than Tudor Lane plus additional land to south west)	Mixed use development comprising of 6 no. B1 office/workshops and 12 no. C3 dwellings, with associated parking bays, bicycle storage, waste storage and vehicular access off Vauxhall Terrace.	Granted subject to conditions	21.08.2012
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* Please note – there are other planning permissions which appear could be for the application site but it is not possible to confirm this by reference to a site plan. These are set out later in the report.

4.0 **RELEVANT PLANNING POLICY**

4.1 The following planning guidance and policies are relevant to the consideration of this application:

4.2 **National guidance**

National Planning Policy Framework (NPPF) and Planning Practice Guidance

4.3 **Development Plan**

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted December 2017)

Relevant policies from the JCS (2017) include:

- SP1 – The need for new development
- SP2 – Distribution of new development
- SD1 – Employment – except retail development
- SD3 – Sustainable design and construction
- SD4 – Design requirements
- SD8 – Historic environment
- SD9 – Biodiversity and geodiversity
- SD14 – Health and environmental quality
- INF1 – Transport network
- INF2 – Flood risk management

4.4 **City of Gloucester Local Plan (Adopted 14 September 1983)**

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 213 of the NPPF states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.)*' Therefore, it is considered that the 1983 Local Plan is out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy.

4.5 **Emerging Development Plan, Gloucester City Plan**

The Pre-Submission version of the Gloucester City Plan (City Plan) was approved for publication and submission on 26 September 2019. The hearing sessions for the examination of the Pre-Submission version of the Gloucester City Plan have concluded and the examining Inspector's post-hearing letter has been received. The letter provides the Inspector's view on modifications required to make the plan sound. Policies which are not listed as requiring main modifications may now attract more weight in the

consideration of applications, with those policies which require modifications attracting less weight depending on the extent of changes required. The Plan remains an emerging plan and the weight that may be attributed to individual policies will still be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and the degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given). Relevant policies include:

- A1 - Effective and efficient use of land and buildings
- B2 – Safeguarding employment sites and buildings
- B3 – New employment development and intensification and improvements to existing employment land
- C1 – Active design and accessibility
- C5 – Air Quality
- D1 – Historic environment
- E2 – Biodiversity and geodiversity
- E6 – Flooding, sustainable drainage and wastewater
- F1 – Materials and finishes
- F3 – Community safety
- G1 – Sustainable transport
- G2 – Charging infrastructure for electric vehicles

4.6 **Other Planning Policy Documents**

Gloucester Local Plan, Second Stage Deposit 2002

Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. While there are number of policies in the 2002 Plan which are considered to accord with the NPPF and have not been superseded by the JCS, none of these are considered to be relevant to the current application.

4.7 All policies can be viewed at the relevant website address:- national policies:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Gloucester City policies:

<http://www.gloucester.gov.uk/resident/planning-and-building-control/planning-policy/Pages/current-planning-policy.aspx>

5.0 **CONSULTATIONS**

5.1 **Highway Authority (Gloucestershire County Council)**

No objection subject to conditions to secure 1 accessible car parking space, 1 electric vehicle charging space and storage space for 6 bicycles.

5.2 **Environmental Health Consultant (Worcestershire Regulatory Services)**

No objection. As the previous use of the site appears to be for a vehicle repair workshop and the proposed replacement building would likely provide a higher level of sound insulation than the existing building; it is not considered that a noise assessment would be required to support the application.

The proposed replacement building is not adjoining a residential property, therefore it is not considered necessary to physically isolate the replacement building from the adjacent commercial building. The proposed additional sound insulation to the party wall may provide some benefit for the existing commercial building workers, but it is not considered that it would be absolutely necessary.

5.3 **Land Contamination Consultant (Worcestershire Regulatory Services)**

No objection subject to standard contaminated land condition. Records indicate that the proposed development site has a history as a vehicle repair shop and as iron and steel works and a such potential contaminated land issues on the site may be significant.

5.4 **Conservation Officer**

No objection. The site is partially located within the Barton Street Conservation Area. The proposal would preserve and enhance the character and appearance of the Conservation Area and would sustain its significant as a designated heritage asset.

6.0 **PUBLICITY AND REPRESENTATIONS**

6.1 Neighbouring properties were notified via letter at the time of the original submission, and also in relation to the amended submissions. Site notices and press notices were also published.

6.2 A petition signed by nine local residents, objecting to the proposal was received. Representations have been received raising a range of issues which may be summarised as follows;

- Object to use of the private lane ('Tudor Lane') as the access point to the business on the grounds of;
 - Parking congestion;
 - Maintenance, damage to the lane, unfair to share maintenance costs with the business
 - No turning point;
 - Lane not designed for volume of traffic referred to, or for larger vehicles as already being used by the applicant. Lane has no streetlighting or pavement;
 - Blocking of access to the rear garages of properties;
 - Vehicles being left unmanned in Tudor Lane;
 - Narrowness of the lane;
 - Preventing residents being able to park and off load to rear gate/garden;
 - Safety, including of children playing in the lane, also pets;
 - The previous permission on the site 11/01284/FUL provided access from Vauxhall Terrace and Barton Street. It was recognised that the private lane was not suitable for vehicular access to the development;
 - Only the land in one specific title has a legal right of access over the lane, the remainder being separate properties with access from Barton Street or Vauxhall Terrace;
 - A garage would involve far more vehicles and heavier, larger vehicles using the lane;
 - Making access to the adjacent commercial property to the south east difficult (the lane is its only access);
 - Behaviour of employees;
 - In 3 years of ownership they have only used the Tudor Lane access;
 - The Vauxhall Terrace or Barton Street accesses would be more suitable – wider, has pavement, streetlighting;
 - Applicant highly unlikely to use both entrances. Applicant has not made a serious attempt to use the public highway – Vauxhall Terrace, which has been boarded up, and they have solely used Tudor Lane.
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- Object to use of Vauxhall Terrace as the access point on the grounds of;
 - Safety, including of children playing on road;
 - Problems for residents as it is also a side entrance;
 - Road is a single lane, dead end road, also a blind spot when exiting the road;
 - Pavement is very narrow;
 - Congestion, road often blocked by vans, preventing bin collection;
 - Vehicles reversing back towards Millbrook Street.
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- Object because the land can be accessed from Barton Street.

- Not considered to have been used as a car repair yard for at least 20-25 years. Small garage on right hand side of entrance from Tudor Lane had been used as a one man band car bodyshop, working part time Monday to Friday 0930-1500.
- Not aware of any fly tipping on land as described – the material left on site was by the previous owner.
- Additional persons attracted to the land increasing security risk, fly tipping, anti social behaviour.
- Visual impact of site, detrimental wear and tear to existing land from the proposed use.
- Disruption, noise and air pollution.
- Workshop doors likely to be kept open at certain times.
- Increasing parking problems.
- Impact on the environment, habitat.
- Issues when previous repair shop was here.
- Business could expand in future.
- Items being dumped in the alleyway, impact on keeping area clean and safe.
- Querying hours of use.
- Preventing children playing on the land.
- Extent of the land involved in the proposal is greater than the extent of the application.
- Unlikely to only work indoors.
- Having yard free from activities in last 3 years since it has been closed has been peaceful, quiet with no pollution.
- Behaviour of employees.
- Damage to neighbouring properties from large vehicles.
- No details of disposing of waste including large oil drums into tanker vehicles.
- Should be used for a better use that would benefit the residential area.
- Will affect obesity in neighbouring families as won't be able to have outdoor space to be active.

6.3 The full content of all correspondence on this application can be viewed on:
<http://www.gloucester.gov.uk/resident/planning-and-building-control/Pages/public-access.aspx>

7.0 OFFICER OPINION

7.1 Legislative background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

7.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:

- a) the provisions of the development plan, so far as material to the application.
- b) any local finance considerations, so far as material to the application; and
- c) any other material considerations.

7.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the partially saved 1983 City of Gloucester Local Plan. However, as outlined earlier, the 1983 Local Plan is considered to be out-of-date.

7.4 It is considered that the main issues with regards to this application are as follows:

- Site history, previous use and context for new application
- Principle
- Design and heritage
- Amenity impact
- Highways impact
- Land contamination
- Flood risk
- Economic considerations
- Ecology

7.5 ***Planning history:***

Applications shown on the planning and byelaws history card for 'Vauxhall Terrace':

Planning permission for use of premises for lock up garages car washing and minor repairs approved 1963.

Planning permission for roof over yard and erection of front wall approved 1976. The applicant was Tudor Motors.

Planning permission refused in 1979 for the erection of a garage/workshop. The applicant was Tudor Motors. The history card notes that authority was given for enforcement action against the unauthorised building, also noting that a planning application was later made and consent given in 1987.

7.6 While not a planning application, the history card lists an approval under building byelaws in 1977 for internal, office and WC, the applicant being Tudor Motors.

7.7 Planning permission was granted in 1980 for retention of use of land for storage/parking of cars, retention of building for use as vehicle polishing/finishing shop, use of existing building as paint store at land off Millbrook Street and at rear of Vauxhall Terrace. The applicant was Tudor Motors Ltd.

The planning history records do not include an application site plan for this permission, however the associated legal agreement includes a plan (appended to this report) that covers the main part of the current application site, abutting Tudor Lane and Vauxhall Terrace. The plan covers the majority of the application site on the northern side other than the north west edge where part of two further gardens have been incorporated into the current application site, and other than the south western edge whereby the current application also includes the land immediately to the west of the main building.

The site address on the permission is described as 'land off Millbrook Street and at rear of Vauxhall Terrace' reflecting the two accesses into the site. It is unclear without a layout plan whether the associated access was Vauxhall Terrace, Tudor Lane, or both, however the site description, and other evidence (see below) indicates use of both for the site activities.

7.8 The associated legal agreement to the 1980 permission refers to the persons party to the agreement as 'partners trading as Tudor Motors at Vauxhall Terrace' and refers to the land identified in the plan as being premises 'known as Tudor Motors Vauxhall Terrace'.

The legal agreement places restrictions on the use of parts of the site as follows (not all of the referenced buildings appear to still exist):

- No further development should take place beyond that permitted.
- A building on the east side to only be used as a vehicle body-work polishing and finishing shop and in connection with such use not to employ the use of any power tools other than a power drill and power polisher.
- A building at the western corner to be used only for storage of materials and one car.
- Garages at the north of the site not to be used for a commercial or business use and not in connection with the use of the site, and to be used for as garages for private cars.
- The central open part of the site to only be used for parking of vehicles either awaiting repair or collection (or those with a right of access over the land to adjoining business premises). Also no repair or servicing work to be carried out on vehicles on this land (other than emergency servicing).
- The buildings at the east side and western corner and the central open part to be ancillary to the vehicle body repair business carried out within the building at the south of the site adjacent to Vauxhall Terrace.
- No sub-letting or sale of parts of the site (only the whole of the premises) other than the garages to north.

7.9 There is therefore a planning permission (the '1980 permission') for a vehicle repair-related use at the site, albeit restricted by the above terms and not covering the full extent of the current application site.

The 1980 permission does not appear, from the description of development, to include the building at the south of the site although it is included within the plan in the legal agreement and is referenced in the agreement notes as 'body repairs and re-sprays' and in the agreement text as 'the vehicle body repair business carried out within the building'. If this did not form part of the 1980 permission, then because it is explicitly mentioned in the agreement it seems evident that it was a pre-existing building – the legal agreement notes that the uses and buildings referred to should be ancillary to the vehicle body repair business carried out within that building, and also to the building being one of "the buildings now existing". It also appears to be referenced in Condition 2 of that permission that requires the rendering of "the building used as a vehicle body-work, polishing and finishing shop" (presumably the whole of the building including the northern projection explicitly referenced for "vehicle polishing/finishing" plus the main building being the "vehicle body-work" part). Furthermore, had it been unauthorised at that time there would have been the possibility of incorporating it into that retrospective application. It is unclear how this building relates to the refused 'garage /workshop' mentioned above (1979) in the absence of a site plan for the 1979 application, however the different approaches apparent in the two cases (explicitly mentioning it as housing a business in 1980 vs. authorizing enforcement action in 1979) suggest that they were distinct buildings. Notwithstanding that, the evidence indicates that either it was considered a lawful building or it was later consented following enforcement action. From the retrospective description of development and the reference to the building already housing a vehicle body repair business, it appears likely that the building at the south was in ongoing vehicle body repair use and the land and buildings further north had been commenced in associated use without permission and the 1980 permission was made retrospectively to regularise the position.

7.10 ***Other evidence of past use:***

The applicant has submitted aerial photos from 1999, 2002 and 2013, all of which appear to show vehicles within the open part of the site. The applicant asserts that this is parking in conjunction with vehicle repairs.

The applicant has cited personal knowledge of the site being used for vehicle repairs by various people from 1967 to the present day including having used the business personally. This assertion is provided in correspondence and not in a sworn affidavit.

Site photographs from the 2011 application show several cars within the site, some in disrepair, and an 'RVH Motors' sign on the rear projection of the main building with a car that may have been being worked on.

The applicant has submitted photographs from within the site showing an extractor unit and showing paint sprayed within the spray shop, and an inspection pit in the mechanical workshop area.

The applicant has submitted correspondence referring to a vehicle repair business at the site, which notes that this previous site owner purchased the yard and associated buildings in about 2003 with a tenant who was operating a car repair yard and body work/paint spraying. The two storey building was also rented out separately for car repairs (this appears to be the building outside the application site to the west). It is noted that the business ceased in 2015. Also provided is evidence of ongoing rental payments for that business between January 2011 and October 2015. Also provided is a letter from the previous owner to the tenant which refers to the tenant's presence at the site for at least a 10 year period (based on the date of the letter that period would be November 2000 to November 2010).

Representations received on the current application also refer contextually to a similar business on the site previously, with a period of c. 3 years since that being present, also the site being in two halves. Another representation notes that to their knowledge it has not been used as a car repair yard for at least 20-25 years; a small garage on the right hand side of the Tudor Lane entrance had been used as a 'one man band' car body shop, part time Mondays to Fridays 0930-1500hours. If this is correct the actual activity on site may have decreased in scale over time, down to the limited use mentioned in the representation.

7.11 The Council has therefore granted permission for the use of a large part of the application site for storage/parking of cars, retention of building for use as vehicle polishing/finishing shop, and use of existing building as paints store, to be used ancillary to the vehicle body repair business carried out within the main building adjacent to Vauxhall Terrace. It is considered that the 1980 permission was implemented (not least because it appears to have been a retrospective application for what was an ongoing use and existing buildings at that time) and that the extant use of that part of the application site is on that basis. From the information available there have not been any other permitted alternative uses having taken place in the intervening period. It is also evident that the building at the south was accepted by the Council as established with a vehicle body repair business. It is therefore considered that on the balance of probability and the evidence available that there has previously been a use of the site for vehicle repair and associated activities established within the site. Albeit a business is not currently operating at the site there is no indication of a separate use being implemented in between. A business was last operating at the site in 2015. The absence of a business from the site does not itself extinguish a planning permission and established use, this runs with the land not with the operator.

7.12 The legal agreement associated with the 1980 planning permission restricts the precise operation of a car repair business, and if the extant use of the majority of the site is derived from that permission then the use is restricted as such.

- 7.13 The submitted aerial photographs and the anecdotal evidence from the applicant and in representations suggest that access was taken off Tudor Lane into the northern area with the parked vehicles, and the existing doors adjoining Vauxhall Terrace indicate an access here also, while a further access at the end of Vauxhall Terrace is also referred to and is shown as open in previous case photographs. From the photographs it is furthermore possible that the other land now incorporated into the application site at the north west and south west may also have been used in association with the vehicle repair uses.
- 7.14 ***Rights of access:***
In relation to the use of Tudor Lane, there is an existing gated access into the site and the applicant has produced evidence of a right of access over the lane. Objections to the application question whether there is a right of access over the lane to the other various titles that make up the application site. This is a private matter and rights of access over private land are not a material consideration, however the applicant has provided details of one title. The Council's legal advisors have checked the title details for the other land parcels comprising the wider site and they are contiguous and all owned by the applicant. There is a right of access to the land adjacent to the lane. The advice from the Council's legal advisors is that there is a legal right of access to the full application site from the lane - as the applicant has a right of access over the lane for the benefit of one title, this right may be exercised to gain access to the other titles comprised in the site which are in the applicant's ownership and contiguous. This also appears to be reflected in the 1980 legal agreement provision for access over the site to other adjoining premises.
- 7.15 ***Purpose of the updated scope of the application:***
The Council has granted permission for the retention of use of land for storage/parking of cars, retention of buildings for use as vehicle polishing/finishing shop, use of existing building as paints store, to be used ancillary to the vehicle body repair business carried out within the main building adjacent to Vauxhall Terrace.
- 7.16 The 1980 permission is restricted as to what can take place where within the site. The applicant's proposal would be in conflict with several of the restrictive clauses in the 1980 legal agreement. In addition, it is not evident that the additional land at the north west (by reference to the site plan this is the former rear gardens of 45 and 47 Widden Street) and south west (the land west of the proposed building) edges of the site have the benefit of planning permission for car repair use, although they do appear within the site of the 2011 permission for 6 offices/workshops and 12 dwellings and may have been purchased and subsumed within the landholding by this point. As a result of the planning history of the site the applicant amended the description of development for this application to include the land in question so that it was clear that the proposed development would cover the buildings and wider site. If granted, a new permission for the whole of the current application site, as now applied for, would establish the basis for operating as the applicant now proposes.
- 7.17 It is considered that the 1980 planning permission has been implemented and as such the associated legal agreement restrictions are applicable, and the Council's legal advisors have advised that the existing legal agreement restrictions would need to be addressed if a new permission were granted. This would be achieved by the Council executing a deed.

- 7.18 Therefore, while this is a new application for vehicular repair use of the whole site, the existing planning permission for a large part of the site and the evidence as to the established use of the site, and its impacts, are a material consideration relevant to the determination of this planning application. Any prospective occupant of the site would have a fallback position of being able to carry on a car repair business at the site in the manner set out in the 1980 permission (save for the land at the north west and south west edges that were not part of that permission) without needing planning permission. The current application was originally for the proposed replacement building at the south of the site, however given the extent of the site and the restrictive legal agreement associated with the 1980 permission it has been considered necessary to establish with the applicant a proposal that would regularise the position in respect of the whole application site in the manner that the applicant proposes to use it. In assessing the impacts of that wider use of the site, the historic use of the site has been considered as a baseline position in the following analysis.
- 7.19 **Principle**
The NPPF requires decisions to give substantial weight to the value of using suitable brownfield land within settlements for identified needs and support the development of under-utilised land and buildings. Decisions should support development that makes efficient use of land, and help create conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 7.20 JCS Policy SP2 seeks to focus development in the JCS area at Gloucester and Cheltenham. Policy SD1 supports employment-related development for the redevelopment of land already in employment use, for the development of new employment land within the City, and where it allows the growth or expansion of existing businesses. Policy A1 requires development to make effective and efficient use of land and buildings. Policy B3 sets out that proposals for new B class employment development, and/or to improve the quality of accommodation, the environment and intensify the use of existing employment sites will be supported where criteria are met relating to; increases in traffic being accommodated by the transport network; satisfactory vehicle access, parking and manoeuvring space can be provided; not resulting in significant adverse impact on the amenity of neighbouring uses; scale and design being compatible with the character of the location; and not resulting in unacceptable adverse environmental impacts. Policy B2 of the Pre-Submission City Plan seeks to safeguard employment sites and buildings for B class employment uses and resists changes to alternative uses unless specified criteria are met relating to the site being redundant or unfit for purpose, not impacting on continued use of adjacent sites, and bringing significant benefits to the local economy or community and Policy E4 of the 2002 Second Deposit Local Plan seeks to resist loss of employment land in general unless criteria are met relating to the land having limited potential for employment, and demonstrating that an alternative use offers greater potential benefit to the community. As the proposals do not propose the loss of the employment site they are not considered further but do indicate the preference in the Council's policy to safeguard employment sites. The supporting text to Policy B2 also notes that the existing urban capacity of employment land is an important component in meeting the quantum of employment land required in the JCS.
- 7.21 The application site is a brownfield site and it is considered that the condition of the buildings on the site contribute little to the amenity of the area. The site is within the built-up area of the City and a sustainable location for the proposed use. The proposal would make efficient use of the land and continue an employment use of the site. In practice, the proposal would enable the relocation of an existing Gloucester business. The specific policy tests relating to highways impact, design and amenity are covered in the sections below.
- 7.22 The principle of the proposed development is therefore considered to comply with the above policy context subject to consideration of detailed planning issues.

7.23 **Design and heritage**

Design policy context:

In terms of design the NPPF sets out that planning decisions should ensure that development will function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history, establish or maintain a strong sense of place, optimise the potential of the site, and create places that are safe, inclusive and accessible and which promote health and well being with a high standard of amenity for existing and future users and where crime and disorder do not have negative effects. Policy SD4 of the JCS sets out requirements for high quality design. Policy SD3 addresses sustainable design and construction. Policy A1 of the pre-submission City Plan requires overall improvements to the built and natural environment, preserving the character of the area and appearance of the streetscene, and appropriate bin storage. Policy C1 requires development to meet the highest possible standards of accessible and inclusive design. Policy F1 requires high quality architectural detailing, external materials and finishes that are locally distinctive, and developments to make a positive contribution to the character and appearance of the locality. Innovative modern materials will be encouraged where they strongly compliment local distinctiveness. Policy F3 requires development to be designed to ensure that community safety is a fundamental principle. Policy B3 includes a criterion for employment proposals on the scale and design being compatible with the character of the location.

7.24 *Heritage legislative and policy context:*

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that where an area is designated as a conservation area 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area'.

The NPPF sets out the importance of protecting and enhancing the historic environment, and conserving heritage assets in a manner appropriate to their significance. In particular, it states that in determining planning applications, local authorities should take account of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. It states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm or loss should require clear and convincing justification; substantial harm to or loss of assets of the highest significance such as scheduled monuments should be wholly exceptional. Tests are set out if 'substantial harm' or 'less than substantial harm' to a designated heritage asset are identified. Policy SD8 of the JCS sets out that heritage assets and their settings will be considered and enhanced as appropriate to their significance. Development should aim to sustain and enhance their significance and put them to viable uses consistent with their conservation whilst improving accessibility. Proposals that secure the future conservation and maintenance of heritage assets and their settings that are at risk through neglect, decay or other threats, also those that bring vacant or derelict heritage assets back into appropriate use, will be encouraged. Policy D1 of the emerging City Plan reflects the guidance in the NPPF and JCS in respect of designated heritage assets.

7.25 The site is partly within the Barton Street Conservation Area at its south west corner, albeit the main proposed building only abuts the boundary of the Conservation Area. Public vantage points by which to view the site in that heritage context are limited. As the existing site and building are in a poor state of repair the site currently contributes poorly to the visual quality of the area. The current condition of this part of the Conservation Area cannot be considered to make a positive contribution overall.

- 7.26 The proposed building is functional in nature, proposed in blockwork with a corrugated steel roof, and would be a replacement building that would appear proportional and comfortably accommodated within the application site, particularly noting the large scale of the existing storage building to the east. The blockwork finish would be a rather rudimentary finish and it would be desirable in the interests of visual amenity to improve this. The external finish could be secured by condition. In the context of its setting; to the rear of properties; not being seen from the main road network; and its siting adjacent to a large neighbouring commercial building (approximately 8.3m tall at maximum); the proposal would appear consistent with its setting and replace a run-down existing building. Given the nature of the proposal it cannot be considered harmful to the character or significance of the Conservation Area. Rather it would preserve and enhance the character and appearance of the Conservation Area and would sustain its significance as a designated heritage asset. The future use of the site could also help to ensure that the redundant parcel of land would be better maintained. In terms of sustainability the scheme is limited although it would improve the building performance beyond the existing, while pollution, environmental and waste issues are addressed below. The proposal would be required to meet Building Regulations and as such the national standards would be met. In terms of accessibility and inclusivity the plans do not show any levels change at the threshold that would inhibit easy access by less ambulant persons.
- 7.27 Some of the representations raise concerns about security and attracting anti social behaviour (ASB) into the lane. It is considered that this is no more likely to be the case for the proposal than the historic use. The absence of a business on site and the associated activity and surveillance of the land that it would have provided, may have contributed to the attraction for ASB while vacant. It is considered that the increased activity from staff and customers from a new business would increase natural surveillance of the area and activity when compared to the current vacant state, which can aid in dissuading crime and ASB.
- 7.28 In the context the proposals are considered to modestly enhance the character and appearance of the conservation area and comply with the above heritage policy context, and S72 of the 1990 Listed Buildings and Conservation Areas Act is satisfied. In similar terms the proposals would comply with the above design policy context.
- 7.29 **Amenity Impact**
The NPPF provides that planning should ensure that developments create places with a high standard of amenity for existing and future users. This is reflected in Policy SD14 of the JCS which requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. Policy A1 requires that proposals should not have a significant adverse impact on the amenities enjoyed by the occupants of neighbouring properties. Policy B3 includes criteria for employment development relating to not resulting in significant adverse impact on the amenity of neighbouring uses and not resulting in unacceptable adverse environmental impacts. Policy C5 relates to proposals for major development and sets out criteria relating to air quality.
- 7.30 A commercial building used for storage is adjacent to the east and to the west side at the southern part it is next to a yard that appears to be used by the applicant for storage, and commercial units to the south beyond Vauxhall Terrace on Barton Street. Otherwise residential properties surround the application site to the west of the northern part, to the north, to the south west and in the wider area further to east, south and west. Nearby residential properties to the proposed replacement building are to the south of the application site across the public highway, to the east on Vauxhall Terrace beyond the adjacent commercial building and to the south west of the site in the rearward building behind the Barton Street frontage.

- 7.31 In terms of the physical impact of the new building, it would be of the same width as the existing building, with an increase in total height of 1m from the highest point of the existing to the eaves height of the proposed; that would represent the increase in the vertical wall. It would be of pitched roof design sloping away from the properties to the south, across the public highway, and is off set to the building to the south west. The replacement building would be a fair distance away from the properties to the east on Vauxhall Terrace (approximately 12.5m with the adjacent building between), and on Millbrook Street (approximately 22m to the gardens at the nearest point with lower level buildings between) and would not cause harm to the living conditions of residents of these properties. The near end of the northern projection would be approximately 11m from the boundary with the Widden Street properties to north, several of which have outbuildings at or close to the boundary. By comparison to the existing plans it appears this would be approximately 2.7m closer to these properties than was the case with the demolished rear part of the building, which also appears to have been lower in height than the proposed. At this northern end the building would be 5.5m to eaves and 6.7m to ridge. Given the separation and relationship, while it would likely be seen from within the rear gardens, it is not considered that this would cause unacceptable harm to the living conditions of occupants of the Widden Street properties by virtue of overbearing, overshadowing or loss of light impacts, and there would be no windows overlooking the properties.
- 7.32 While the new building would be clearly perceived in views from properties to the south and south west, it is not considered that the building's additional impact above and beyond the existing would cause significant unacceptable harm to the amenities of residents by virtue of overbearing, overshadowing or loss of light impacts. The proposal would also not include any new fenestration above ground floor level that would overlook neighbours, so there would be no issues with regards to overlooking or loss of privacy.
- 7.33 The proposed replacement building would not adjoin any residential properties, but would adjoin a commercial property understood to be used for storage. The applicant considers that there would be no unacceptable noise because the proposed building would be very well insulated and dampen travel of sound to all neighbours, and that it would produce less noise than the previous owner of the existing building. The Council's environmental health consultant advised that the proposed replacement building would likely provide a higher level of sound insulation than the existing building. Furthermore the applicant has agreed a condition that all works taking place within the building would be with windows and doors closed which would be an improvement over and above the established building use, as would a condition limiting times of use that does not appear to exist for the historic use.
- 7.34 In terms of impacts from the wider use of the site, the historic use set out above should be acknowledged, and consideration given to whether the proposals would cause demonstrable harm above and beyond that. In that context it is considered that the proposed arrangements would similarly involve use of the open area for parking and manoeuvring of vehicles in association with a main building in the same position, as per the 1980 permission. Specific differences from the 1980 permission are noted below. Furthermore the Authority may agree to impose conditions on a new planning permission regulating the activities on the site. The applicant has set out the following in relation to the operation of the business with respect to issues that might cause disturbance:

- 7.35 The proposed hours of use are 0830 to 1800hrs Monday to Friday and 0830 to 1330 Saturdays. The applicant has informally indicated that business would stop at 1730/1300 with some activity for a further 30 minutes for customer collection, etc. There do not appear to be any restrictions on times of use in the 1980 permission. The current policy and approach to such uses would suggest a times of use restriction in order to protect amenity.

The 'new' areas of land not subject to the 1980 permission at the north west and south west edges would be open areas used for parking of vehicles. The 1980 permission required open areas of land to be used for parking or access and were similarly next to gardens to the north west.

The applicant has confirmed no external plant is proposed. The applicant has stated that all major work would be carried out inside the building where they would have the ramps to make the work easier to undertake, and which would have better insulation than the present building. The applicant has said that only light work would be carried out outside the building if the need arises. These tasks have been clarified by the applicant and are listed as follows;

- Attending to lights or checking electrical faults;
- Fitting a spare wheel;
- Listening and attempting to trace an unusual sound coming from vehicle;
- Jack up to check for rubbing noises etc coming from wheels;
- Check engine levels etc;
- Check and evaluate condition of vehicle.

These tasks would therefore be somewhat beyond the restriction in the 1980 legal agreement to prevent anything other than the parking of vehicles awaiting repair or collection or accessing over the land. It is considered that the fitting of a spare wheel, and tracing vehicle sounds and checking engine levels if involving revving the engine, could be noisy activities and would be preferable inside. With these activities relocated inside it is not considered that the remaining external activities are likely to cause significant demonstrable harm to living conditions. The limit on activities could be secured by condition.

The activities inside the building could be undertaken with the doors closed. This could be secured by condition.

3 employees are proposed.

8 customers per day, on a busy day, is estimated (though there may be some fluctuation).

The applicant has also confirmed arrangements for customers dropping off and collecting vehicles as follows:

- All customers dropping off vehicles to drive into yard from either of the two entrances and park in one of the customer parking areas.
- Customers collecting their vehicle to pick vehicle up from inside yard. Under no circumstances will any vehicles be parked or left in Tudor Lane or Vauxhall Terrace.
- Any vehicles not collected at end of working day to be stored inside the building or in secure yard. There would be a turning circle provided in the yard for vehicles such as delivery vehicles to turn around on site, avoiding the need to reverse along access routes.

Security lights to be mounted at approximately 2m high pointing into the rear yard. They are only intended to be operated during poor light during operating hours and would be switched off at the end of the working day. The arrangement would be secured by condition.

- 7.36 The proposals in the application therefore appear to be similar to the historic use (with a new replacement building), with some additional restrictions offered and some additional activities requested. Subject to conditions to secure some of the above arrangements the proposals are considered unlikely to inherently cause any material worsening in the living conditions of nearby residents.

Overall it is considered that with conditions to control a number of these matters, no significant harm would be caused to the amenities of residents.

- 7.37 Amenity impacts from use of the roads has been commented on in representations. Again the historic use of the site is noted as a baseline position. The applicant estimates that their business would be a less intense use of the site compared to the previous. Furthermore it is noted that the previous 2011 permission established the principle of vehicular accesses being acceptable from Vauxhall Terrace to serve 6 B1 office/workshops and 12 dwellings. Vauxhall Terrace also already has several commercial accesses operating.
- 7.38 Tudor Lane also has existing vehicular accesses to the rear of properties to the north, and also to the commercial property to the east adjacent to the application site which appears to be in storage use. In terms of the potential issue of cars being left in the lane and blocking access, the applicant has confirmed this would not occur and storage would be maintained within the yard. This would be done for insurance and customer care reasons anyway. Ultimately it is possible that cars may be left on the lane but the applicant has set out reasonable measures suggesting there is no reason for this arise and it would be counter productive to do so for insurance and security reasons. As Tudor Lane is a private road the highway authority would not police it. Owners would need to make arrangements for managing any abuse of the private lane. Nevertheless, as it is within the application site a condition is proposed to prevent storage of vehicles in the lane. This would similarly address the concern in the representation about making access to the adjacent commercial property to the south east difficult (the lane is its only access).
- 7.39 The level of customers and staff proposed indicate that while there would be an increase in movements in the two streets above what is experienced currently since no business is present at the site, it is considered that it would be difficult to clearly demonstrate harm to amenity from the proposed use of the roads in the manner set out in the application relative to the existing use of those roads (and even more so by comparison to the likely previous activity on the site).
- 7.40 The proposal is for a Class B2 use. Uses within the same use class unless specifically exempted can interchange without planning permission. Class B2 uses include a range of uses that could cause harm to the amenities of residents. The 1980 permission includes restrictions as to the precise use of the site. The new application proposes a slightly different arrangement. In order that the site could not be used for such other B2 uses that have not been considered or mitigated against, it is also considered appropriate that a planning condition be applied securing the use of the site for vehicles repairs only. As such any other uses including those within that use class would need to be considered by the Local Planning Authority under a new planning application.
- 7.41 In terms of air quality the policy is in relation to major developments. Notwithstanding that, again it is not considered that the proposals would cause demonstrable significant harm to air quality, particularly where considered by comparison to the historic use.
- 7.42 Overall it is not considered that the proposed development, subject to conditions, could be demonstrated to cause significant adverse harm to local amenity, including the amenity of neighbouring occupants. The proposal would comply with the above policy context.

7.43 **Highways Impact**

The NPPF requires that development proposals provide for safe and suitable access for all and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires safe and accessible connections to the transport network. Policy B3 of the City Plan relating to employment development includes a criterion on increases in traffic being accommodated by the transport network and satisfactory vehicle access, parking and manoeuvring space can be provided. Policy G1 sets out that the Council will work closely with Gloucestershire County Council and other organisations regarding all local transport matters, that the JCS policies and Gloucestershire Local Transport Plan will be used for planning application decision making, and that new development shall provide car parking and cycle provision in accordance with the latest version of Gloucestershire Manual for Streets and any subsequent amendment. Policy G2 sets out requirements for charging infrastructure for electric vehicles.

- 7.44 In terms of the use of the accesses, as above, it is relevant to note the 2011 permission for use of Vauxhall Terrace to access 6 office/workshops and 12 dwellings, the applicant's existing right of access to the site from Tudor Lane, and the historic use.
- 7.45 The applicant has confirmed that space would be provided for turning in the site, so there would be no need for vehicles reversing back along Tudor Lane towards Millbrook Street. The Highway Authority agrees that there is adequate space within the site to provide parking and turning facilities to allow for forward gear egress. As such, this is proposed to be secured by condition.
- 7.46 25 parking spaces are noted which would appear sufficient for the businesses' needs, while as noted, leaving customer cars outside the compound would be counter productive for insurance and customer care reasons.
- 7.47 In terms of the size of vehicles using the lane the applicant has said that they would service cars and light vans and it is unlikely that they would propose use of an access that would inhibit entrance by those vehicles, while the historic photographs indicate such vehicles inside the northern part of the site. Notwithstanding this the width of the lane is between 2.73m (excluding the pavement width; 3.73m overall) at the lane entrance and 3.65m at the entrance to the site (the gated entrance is 5.8m across being positioned diagonally to the lane), and as an example of vehicle width, a Ford Transit is 2.5m wide, a Volvo XC60 is 2.1m, both including mirrors. The lane is also used to access the rear of several Widden Street properties and the adjacent storage unit. The Highway Authority advises that there is no history of personal collision incidents on Millbrook Street in the last 5 years.
- 7.48 The application also proposes use of the Vauxhall Terrace access. The applicant has advised that they would use the Vauxhall Terrace access but due to it being blocked regularly by vans loading/unloading at the rear of Barton Street shops, they would use Tudor Lane as an alternative entrance. The applicant has also noted that they plan to use both accesses so as not to cause congestion.
- 7.49 Notwithstanding the proposed usage set out by this specific applicant in terms of staff and customers, the Highway Authority will often consider trip generation information based on the theoretical results from a development of that size. In this case the Highway Authority has set out that the trip generation from the proposed increase in building size would be 14 new vehicle movements a day with 3 additional AM peak movements and 2 additional PM movements. The Highway Authority advice is that this increase would not be regarded as material. It should be noted that this is based on there being an established building use on site, and not a figure based on an entirely new development. In such an assessment then the figure would be higher.

- 7.50 The Highway Authority advice is that the development would not cause a detriment to highway safety and would not have an impact that is regarded as severe. Overall the advice is that there would not be an unacceptable impact on highway safety or a severe impact on congestion and there are no justifiable grounds on which an objection could be maintained.
- 7.51 Finally, in considering the vehicular access off Vauxhall Terrace; while there is a 6m gap shown between the near corner of the building and the corner of the neighbouring property to the south west and the Highway Authority raises no objection on the grounds of vehicular access, the gates indicated on the submitted block plan are of limited width and there may also be scope to site them further from the neighbouring property to the south west. It is considered that this should be reviewed to ensure a safe and workable access and keep it as far from the neighbouring property as possible. A condition for a revised gate siting and arrangement is therefore proposed.
- 7.52 Subject to conditions it is considered that the proposed development would comply with the above policy context.
- 7.53 **Land Contamination**
The NPPF requires that planning decisions should take into account ground conditions and any risk arising from land instability and contamination. It also notes that decisions should contribute to remediating and mitigating contaminated land where appropriate. Policy SD14 of the JCS which states that new development must incorporate, as appropriate, the investigation and remediation of any land contamination within the site.
- 7.54 The Council's contaminated land consultant advises that the contaminated land site history indicates use as a vehicle repair shop and as iron and steel works and as such potential contamination may be present. The consultant recommends use of a condition to ensure that potential contaminated land issues are appropriately addressed. This could be achieved by the standard contaminated land condition and would be required to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, as well as controlled waters, property, and ecological systems.
- 7.55 Subject to condition the proposal would comply with the above policy context.
- 7.56 **Flood risk**
The NPPF requires that development is directed to the areas at lowest risk of flooding, that new development should take the opportunities to reduce the causes or impacts of flooding, should not increase flood risk elsewhere and take account of climate change. Policy INF2 of the JCS reflects the NPPF, applying a risk based sequential approach, and seeking reduction in flood risk and sustainable drainage systems. Policy E6 of the City Plan also reflects the NPPF advice and seeks flood risk betterment and SuDS.
- 7.57 The vast majority of the site is in Flood zone 1 (low risk of flooding). Now that Tudor Lane is included in the site it is noted that a small part of the lane is in Flood zone 2 and there is Flood zone 3 at the end at Millbrook Street. In the context of the historic use, and the reasons for including the use of the whole site within the application, it is not considered that any harm would arise in the context of considering the flood risk sequential test; it is effectively a change to the specifics of the use of the site, and changes of use do not need to satisfy the sequential test, with a replacement building also. The parts of the site subject to physical works are within flood zone 1. No harm would be caused to flood risk elsewhere. With the Vauxhall Terrace access as an alternative egress point to Millbrook Street there would be a flood zone 1 means of escape even without considering the historic use.
- 7.58 It is considered that the proposal complies with the relevant policy context.

7.59 Economic considerations

The construction phase would support employment opportunities and the proposal would provide for the relocation of an existing business. Therefore the proposal would have some modest economic benefit. It would also deliver several jobs, although again if considered in the context of carrying on the previous use, would be more accurate to consider that it would maintain them. In the context of the NPPF advice that “significant weight should be placed on the need to support economic growth and productivity”, this adds some limited weight to the case for granting permission.

7.60 Ecology

The NPPF requires development to minimise impacts on and provide net gains for biodiversity. Policy SD9 of the JCS similarly requires the protection and enhancement of biodiversity in the area. The emerging City Plan requires the conservation of biodiversity and providing net gains in Policy E2.

7.61 The site comprises largely of hardstanding and low-level buildings and it currently contributes little in terms of ecology. To secure net gain a condition could be imposed to require some measures such as bird and bat boxes, which appears reasonable for the scale of proposal. Subject to this, the proposal would comply with the above policy context.

7.62 Other issues raised by objectors

- Waste – the applicant has stated that they take their general waste to the tip once a week by van, all metal waste is taken direct to metal recyclers by van. Waste oil is collected in a small tanker that would enter the site via Vauxhall Terrace. The applicant notes that refuse collection vehicles that are much larger than this tanker use Vauxhall Terrace every week.
- Health and safety – if there were a concern about health and safety the appropriate body would need to investigate. It is not evident that any significant harm would arise over and above the historic use.
- Environment and habitat – visual and environmental health impacts have been covered above. There does not appear to be any habitat of note and in any respect the historic use could resume on the majority of the site.
- Maintenance, damage to the lane – the applicant confirmed maintenance would be shared with other lane users. As a private lane this would need to be administered by owners.
- Business could expand in future – the applicant has advised that there are no plans to expand at present noting that they are a small family owned garage business and should not involve more vehicles than the previous use. Notwithstanding this, a car repair business would appear to be able to use the majority of the site anyway if compliant with the 1980 legal agreement. If any business expansion involved further change of use of land or building operations that required permission, they would be subject to consideration at that time.
- The behaviour of employees engaging with local residents and their damaging property is not a matter for the planning application where the proposed use should be considered.
- Obesity in neighbouring families – it is not considered that demonstrable harm could be shown to pollution so this would equally be the case for the health of residents using their external spaces.
- Extent of the land involved in the proposal is greater than the extent of the application – it is believed that this has been addressed by revising the nature of the application to cover the full extent of the site and the proposed use.

7.63 **Conclusion**

This application has been considered in the context of the policies and guidance referred to above. It is considered that on the balance of probability and the evidence available that there is an established use of most of the site for a restricted car repair use pursuant to which a car repair business could take occupation on those restricted terms, and that underpins the assessment against the various policy and guidance.

The proposal would improve the appearance of the site and modestly enhance the character and appearance of the Conservation Area. It would provide some modest economic benefits during the construction period and in enabling a business to relocate and make efficient use of the site. As such it would have economic and environmental benefits. The applicant's agreement to certain conditions would also add to the mitigation measures over and above the historic use.

The various concerns raised in representations are acknowledged but it is considered that when compared to the historic use and given the matters that can be controlled by condition to mitigate impact, no significant harms can be identified that would substantiate refusal of permission.

Subject to conditions the proposal is consistent with those policies and guidance in terms of principle, design and heritage, amenity impact, highways impact, land contamination, flood risk, economic considerations and ecology; the proposal is acceptable and accordingly it is recommended that planning permission be granted.

8.0 **RECOMMENDATION OF THE CITY GROWTH AND DELIVERY MANAGER**

8.1 That planning permission is **GRANTED** subject to the following conditions:

Condition 1

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason

Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

Condition 2

The development hereby permitted shall be carried out in accordance with the following approved drawings, except where these may be modified by any other conditions attached to this permission:

- Proposed Floor Plan Rev 2 – dated 7/11/2021
- Proposed Elevations Rev 2 – dated 7/11/2021
- Proposed Site Plan Rev 5 – dated 7/11/2021
- Proposed Block Plan Rev 4 – dated 7/11/2021

Reason

To ensure that the development is carried out in accordance with the approved plans.

Condition 3

The premises shall only be used for vehicle repair (and for no other purpose including any other purpose in Class B2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason

In order to protect the amenity of local residents and the locality.

Condition 4

The use of the land and building hereby permitted shall not be operational outside the following times:

0830hours to 1800hours Monday to Friday (notwithstanding Bank Holidays)

0830hours to 13.30 Saturdays.

And for the avoidance of doubt shall not be operational on Sundays or Bank Holidays.

Reason

In order to protect the amenity of the local area.

Condition 5

External lighting to the development hereby permitted shall be mounted at a height no greater than 2 metres above ground level and fixtures shall be angled to face down into the site. The site shall not be illuminated by such external lighting outside of the approved hours of operation set out in Condition 4.

Reason

In order to protect the amenity of the local area.

Condition 6

No works to vehicles using machinery or other industrial processes shall take place on the site other than within the workshop building hereby approved except where provided for as follows. The remaining part of the site other than the workshop building shall only be used for parking of employee vehicles or vehicles awaiting repair or collection (or those with a right of access over the land to adjoining business premises) and/or for the following activities:

- Works to vehicle lights;
- Checking electrical faults;
- External and non-invasive evaluation of vehicles to identify issues where not involving revving the engine;
- Lifting of vehicles using a jack to undertake external and non-invasive evaluation of wheels;
- Checking of levels, readings, etc of vehicle engines where not involving revving the engine.

Reason

In order to protect the amenity of the local area.

Condition 7

No vehicles associated with the development hereby approved (either employee, business or customer vehicles) shall be stored within the private lane know as Tudor Lane (the road between the site entrance gates and Millbrook Street).

Reason

In order to protect the amenity of the local area.

Condition 8

Vehicle repair works (other than those allowed for by Condition 6 in the remaining part of the site other than the workshop building) shall only take place within the workshop building hereby approved and with all of the external doors and windows of the workshop building closed.

Reason

To preserve the amenities of the area.

Condition 9

During the construction phase (including demolition and preparatory groundworks), no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or dispatched from the site outside the following times:

Monday to Friday 0800hours to 1800hours

Saturday 0800hours to 1300hours

And for the avoidance of doubt not at all on Sundays, Bank or Public Holidays.

Reason

To protect the noise climate and amenity of local residents.

Condition 10

Notwithstanding the submitted plans, the development shall not be brought into use until a plan showing the siting and arrangement of a gated access off Vauxhall Terrace and any associated boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented only in accordance with that approved plan.

Reason

To provide for a safe vehicular access and in the interests of the amenities of neighbouring occupants.

Condition 11

Notwithstanding the submitted plans, no construction above ground level of the building hereby approved shall take place until details of the external finish of the building have been submitted to and approved in writing by the Local Planning Authority. The building shall be constructed in accordance with the approved details.

Reason

In the interests of the visual amenity of the area.

Condition 12

The development hereby permitted shall not be brought into use until 1 no. accessible car parking bay has been provided on site in accordance with details to be submitted to and approved in writing in advance by the Local Planning Authority and shall be maintained as such for disabled users for the duration of the development.

Reason

To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians.

Condition 13

The development hereby permitted shall not be brought into use until a minimum of 1 no. car parking space that enables charging of plug-in and other ultra-low emission vehicles has been provided on site in accordance with details to be submitted to and approved in writing in advance by the Local Planning Authority and shall be maintained as such for the duration of the

development.

Reason

To ensure that the development incorporates facilities for charging plug-in and other ultra-low emission vehicles.

Condition 14

The development hereby permitted shall not be brought into use until secure and covered cycle storage facilities for at least 6 no. bicycles has been made available on site in accordance with details to be submitted to and approved in writing in advance by the Local Planning Authority.

Reason

To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the appropriate opportunities for sustainable transport modes have been taken up.

Condition 15

The building hereby permitted shall not be occupied until the vehicular parking and manoeuvring facilities within the site have been laid out in accordance with the approved plans, and shall be maintained available for those purposes for the duration of the development.

Reason

To ensure that safe and suitable means of access is provided.

Condition 16

Unless otherwise agreed by the Local Planning Authority, development other than site securing, demolition to ground slab level, or that required to be carried out as part of an approved scheme of remediation must not commence until parts a) to d) of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d) has been complied with in relation to that contamination.

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- A survey of the extent, scale and nature of the contamination,
- An assessment of the potential risks to human health, property, adjoining land, groundwater and surface waters, ecological systems and archaeological/ancient monuments,
- an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by

removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must accord with the provisions of the EPA 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to also as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

d. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part 3.

e. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 17

Notwithstanding the submitted details, prior to first occupation of the building hereby approved a scheme for biodiversity enhancement (such as permanent bat roosting feature(s) and other measures such as nesting opportunities for birds), shall be submitted to and approved in writing by the Local Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme. The

scheme shall include, but is not limited to, the following details:

- i. Description, design or specification of the type of feature(s) or measure(s) to be undertaken;
- ii. Materials and construction to ensure long lifespan of the feature/measure;
- iii. A drawing(s) showing the location and where appropriate the elevation of the features or measures to be installed or undertaken;
- iv. When the features or measures will be installed and made available.

The enhancement measures shall thereafter be implemented in accordance with the approved details.

Reason

To provide net gains for biodiversity.

Note 1

Your attention is drawn to the requirements of the Building Regulations, which must be obtained as a separate consent to this planning decision. You are advised to contact the Gloucestershire Building Control Partnership on 01453 754871 for further information.

Note 2

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

Note 3

Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:

- Work on an existing wall or structure shared with another property.
- Building a free-standing wall or a wall of a building up to or astride the boundary with a neighbouring property.
- Excavating near a neighbouring building.

The legal requirements of this Act lies with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act 1996. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DCLG publication Preventing and resolving disputes in relation to party walls – explanatory booklet.

Person to Contact: Adam Smith (01452 396702)

Planning Application: | 18/01244/FUL

Address: | Land at the rear of Vauxhall
Terrace, Gloucester

Committee Date: | 8.2.2022

Existing site plan



Plan from 1980 Legal Agreement



Proposed site plan

