
APPLICATION DETAILS

Application No:	20/0742/FUL
Location:	436 Linthorpe Road Middlesbrough
Proposal:	Change of use from car wash (sui generis) to retail unit Class E(a)
Applicant:	Mr K Gafoor
Agent:	Pyramid Architectural Designs
Ward:	Park
Recommendation:	Approve with Conditions

SUMMARY

Planning permission is sought to change the use of the previous car wash to a retail unit with associated parking. Six objections were received to the application.

The applicant submitted a sequential assessment to support the application and this is considered to have adequately demonstrated the site as being appropriate for the use and that retail premises can be located here without having a detrimental impact on the vitality and viability of the nearby local centre.

Consideration was given to the issues raised by local residents however it is considered that that the proposal will not result in a significant increase in terms of noise and disturbance to local residents. Traffic generation information provided with the application was considered to demonstrate that the proposal will not have an undue impact on the free flow and safe movement of traffic on the nearby highway and that adequate parking provision is made within the site.

Consideration was also given to the potential impact of a land ownership dispute but it was found that the outcome of the dispute would not result in the scheme being unviable in terms of parking provision.

The proposed change of use is considered to be in accordance with both local and national planning policies and the officer recommendation is to approve subject to conditions.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is towards the southern end of Linthorpe Road, on the boundary of the of the Linthorpe Village Local Centre which cuts through the site with the access which is off Linthorpe Road being within the Local Centre and the industrial building to the eastern side being outside of the centre.

The site was formerly used as a vehicle exhaust and tyre fitting garage and more recently as a car wash. Vehicular and pedestrian access is to the front of the site from Linthorpe Road with delivery access to the rear. The site is bounded to the north by a vacant plot, to the east by a highway with industrial uses beyond. A restaurant with residential properties above and a motor repair shop abut the site to the south and a public house lies to the west with commercial properties beyond. Access to the first floor flats fronting onto Stonehouse Street is taken from within the site.

The proposal subject of this application is to convert the existing building to a supermarket with a gross floor space of 778sqm, 545sqm of which is retail floor area. 26 vehicle parking spaces and 16 cycle parking spaces are indicated on the plans. Proposed opening hours are 08:00-18:00 Monday to Saturday and 10:00-16:00 Sundays and Bank Holidays

The following documents were submitted in support of the application:

- Design and Access Statement including traffic generation figures
- Sequential Test

PLANNING HISTORY

M/OUT/0666/07/P ERECTION OF 1NO RETAIL UNIT WITH ASSOCIATED CAR PARKING AND LANDSCAPING AND DEPARTURE FROM LOCAL PLAN Approve with Conditions
29th May 2007

M/FP/1920/08/P CHANGE OF USE FROM TYRE & EXHAUST SITE (B2) TO CAR WASH (SUI GENERIS) Approve with Conditions
20th January 2009

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

CS4 - Sustainable Development
CS5 - Design
CS13 - Town Centres etc Strategy
REG29 - Local Centres
DC1 - General Development
UDSPD - Urban Design SPD

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Middlesbrough Council Waste Policy

No comments.

Middlesbrough Council Strategic Policy

The proposed use of retail, is in accordance with Policies CS13, Reg29 and CS4, is in keeping with the Local Centre designation and will see the re-use of a long standing vacant premises. However, it is key to the vitality and viability of the Local Centre that the store be accessible for customers from the Linthorpe Road elevation only, and that there is no intended customer entrance from the rear; as the actual building does not lie within the local centre designated boundary.

The findings of the sequential test, in meeting the requirements of the NPPF, have considered alternative sites and determined suitability in line with Policy CS13. As per previous policy comments, if the application is minded to be approved and in order to protect the retail core of Linthorpe Village Local centre and avoid future sporadic sprawl, customer access should be limited to the entrance on 436 Linthorpe Road.

Middlesbrough Council Highways

The Councils Highway Engineer considered the proposal and the submitted traffic information and advised that it was considered that the level of traffic generated by the proposed use as supermarket would not lead to a materially adverse impact on the free flow and safe movement of traffic on the surrounding highway network. It was also advised that, the levels of parking associated with the site is in accordance with the maximum requirements set out in the Teesside Highway Design Guide and that subject to details of a revised access design being submitted, there were no objections to the proposal.

Middlesbrough Council Environmental Health

No objection.

Ward Councillors

No comments received.

Number of original neighbour consultations	25
Total numbers of comments received	6
Total number of objections	6
Total number of support	0
Total number of representations	0

Following consultation, six responses were received. The following issues were raised:

- Dispute over ownership of land
- Access to, and loss of parking for nearby flats
- Land owners not consulted
- Arrangements for refuse collection not shown
- Plans do not show structures around the site
- Concern regarding public right of way on site
- Impact on servicing for existing businesses on Stonehouse Street
- Excess of Asian Supermarkets in area
- Access to, and loss of parking for flat
- Noise and disturbance
- Access to, and loss of parking for flat
- Land not owned by applicant
- Increased noise and disturbance

- Applicant is not land owner, incorrect certificate signed
- Site edged red is incorrect due to ongoing land dispute
- External Staircase to flats not shown on site plan
- Site is outside of the local centre so a sequential test is needed
- Lack of transport statement and swept path details
- Obstruction for delivery vehicles on Stonehouse Street
- Proposal will result in additional obstruction on Linthorpe Road
- Already sufficient retail supermarkets
- Public right of way should be illustrated on plans
- Details of waste storage and recycling required
- Insufficient car parking for a non-centre retail supermarket
- Has the land to the north of the site marked as car park been sold
- Impact on access to flat
- Noise and disturbance
- Loss of parking for flat

Comments raised were from the following addresses;

Mr S Rennison, Landlord 4-12 Stonehouse Street

Patcharre Downie ,12a Stonehouse Street

Michael Norcott, 10A Stonehouse Street

Craig Rennison, The Copperstone Restaurant 4-12 Stonehouse Street

Thongmee Donkanha, Flat 12C & Flat 12 B, 4-12 Stonehouse Street

PLANNING CONSIDERATION AND ASSESSMENT

Policy context

1. The National Planning Policy Framework (NPPF) was most recently revised and published by the Government in February 2019, and is a material consideration. The NPPF states that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para. 12). In determining planning applications, due weight should be given to local planning policies in accordance with their consistency with the revised Framework, with greater weight given to those policies which are closer to those in the Framework (para 213).
2. As a starting point, the proposal should be assessed against policies set out in the Development Plan. Policies DC1, CS4 and CS5 in essence seek to ensure high quality sustainable development, ensure the amenity of nearby residents, character of the area and highway safety are not adversely affected by the development.
3. As part of the site is within the Linthorpe Village Local Centre, Policies CS13 and REG29 also apply. CS13 seeks to establish a hierarchy of centres and ensure that development is of an appropriate nature and scale commensurate with the current and future function of the centre. REG29 determines that planning permission will be granted for retail development (Class E(a)) other complimentary uses will be permitted provided that they contribute to the vitality and viability of the centre.

Principle

4. Although the access to the site is located within the local centre and all public access will be taken from this point, the building itself is located beyond the local centre boundary. Where development for retail is located outside of a defined centre, the National Planning Policy Framework requires that a sequential test needs to assess the availability of more suitable premises within or closer to

nearby centres is required. Given that the site is only partially within the centre the applicant was requested to submitted a sequential assessment. The assessment considered alternative sites in nearby local centres and concluded that there were no other viable sites available for the proposed use and that the application site was the preferred option, is in a sustainable location being close to public transport routes and would bring back into use a vacant building.

Vitality and Viability of the Local Centre

5. The unit is located on the very edge of the Local Centre and its proposed use as retail could be considered to draw trade but it also has the potential to draw in customers from a wider area and increase footfall within the centre, thereby supporting the centres vitality and viability. In order to ensure the proposed retail premises operates in a manner which supports the vitality and viability of the local centre, it is considered necessary that the customer access is taken from Linthorpe Road only, thereby maintaining the focus of customers towards Linthorpe Road. A suitable condition is recommended to prevent customer access from anywhere other than Linthorpe Road, in view of which, it is considered that the use as retail will contribute to supporting the vitality and viability of the Local Centre in accordance with Policy CS13 and REG29.

Appearance

6. In respect of appearance, the Middlesbrough Urban Design Guide states that development should be of an appropriate scale and design and should enhance not detract from the character of the area. The existing building will be converted to a retail unit and as such its scale remains unaltered. At present the building and site generally have an untidy, disused appearance. Proposed changes to the external appearance of the building are minimal and include;
 - relocation of personnel door to the front elevation,
 - relocation of a roller shutter door to the rear elevation and
 - removal of a roller shutter door and creation of a glazed customer entrance to the front elevation with a canopy over.
 - Reconfiguration of existing parking area and entrance to the front of the site.
7. These proposed changes to the exterior of the building are considered to be an improvement to its overall appearance. It is therefore considered that the proposal will not have a positive impact on the character of the area in accordance with CS5 (test c) and DC1 (test b), the Urban Design Guide.

Amenity

8. Concerns were raised regarding the impact of the proposal on the amenity of the occupants of the first floor flats on Stonehouse Street which back onto the site. Given the proposed opening hours of the business between 08:00-18:00 Monday to Saturday and 10:00-16:00 Sundays and Bank Holidays, it is considered that any impact in terms of noise and disturbance would be during normal working hours and not be unreasonable given the location of the flats adjacent to a local centre. The proposal would not result in excessive additional noise, especially when considering that the dwellings are located above an existing restaurant and adjacent to a public house where noise levels are likely to occur at more unsociable hours. Consideration is given to the site already being in commercial use and the impacts on residential amenity that can therefore already occur in this general area. The Councils Environmental Health Officer considered the proposal and raised no objections.
9. In light of the above, it is considered that the proposed alterations will not have a significant additional impact on the amenity of nearby residents taking into account its position within / adjacent to a Local Centre where movement of

people and vehicles is part of the character and expectations of the area and that the scheme is in accordance with policy DC1 (test c) in these regards.

Highways

10. Plans submitted with the application indicate provision of 26 car parking spaces and 16 cycle spaces, this accords with the requirements of the Tees Valley Highway Design Guide and Specification for a use of this nature and in view of the site being within / adjacent to a local centre, where there is good access to public transport, it is considered that there is no specific evidence that applying the design guide principles would be unsuitable.
11. Following negotiation with the Councils Highway Department, indicative plans showing amendments to the access to formalise the junction layout and improve the pedestrian / sustainable transport user environment were submitted. The proposals were agreed in principle by the Highway Engineer with the full technical details to be submitted if planning permission is granted. A suitable condition is recommended to address this.
12. An assessment of the level of traffic generated was submitted as part of the Design and Access Statement and considered by the Councils Highway Engineer. It was considered that the levels of traffic generated as a result of the retail use although greater than the previous use as a car wash, would not be so significant as to have a material effect on the free flow and safe movement of traffic on the adjacent highway.
13. Concerns were raised regarding servicing at the site for the proposed retail premises. Plans submitted with the application show roller shutter doors to the rear where deliveries will take place from the highway and whilst this arrangement is not ideal, previous uses were serviced from this point and the highway is an unadopted highway serving other industrial uses to the rear of the building and is not a main thoroughfare. In view of it maintaining that arrangement for servicing and in view of the nature of the highway to the rear, it is considered to be acceptable in this regard.
14. Concerns were also raised regarding collection of waste from the site. Waste storage provision is shown as being provided to the side of the building. It is the responsibility of the site operator to ensure adequate refuse collection arrangements are made through a private operator who will be responsible for organising suitable access to the waste storage facility. Again, waste storage and collection will have been part of commercial operations from the site and are not considered to raise concerns for this new proposal.

Land ownership dispute

15. Comment was made that the proposal will remove access and parking for the four residential units at 4-12 Stonehouse Street and that there is an ongoing land ownership dispute relating to the sites. Land ownership is not specifically a planning matter but what is important is that approval of one scheme does not undermine another on material planning grounds. Planning approval can be granted, but not necessarily being able to be implemented if other legal restrictions prevent it from being lawfully implemented.
16. In this instance, there is a dispute over the area of vehicle parking which forms part of the previous approval for the flats at Stonehouse Street. If the outcome of the dispute determines that the land in question is not within the ownership of the applicant for this proposal, then, this will result in a shortfall of five parking spaces associated with the supermarket use. The parking standards set out in the Teesside Design Guide are a maximum level and consideration has therefore

been given to the potential impact of a short fall of five spaces on the surrounding highway network. The Councils Highway Officer has indicated that, due to its proximity to the Town Centre and sustainable forms of transport, there is an expectation that some customers will arrive by bus, walk or arrive on cycles. As such, the shortfall of five spaces would not have such a significant material impact on the free flow and safe movement of vehicles on the adjacent highways as a result of on street parking.

17. In respect of the parking and access provision for the nearby flats, an application for retrospective planning approval for a first floor extension to the flats and relocation of the access stairway was submitted in 2018. The submitted plans included six parking spaces to the rear of the flats that were shown to be within the site boundary. The appropriate certificates were completed with that submission indicating that the whole of the site was within the applicants ownership. The application was subsequently approved. The area where the parking spaces are located is now shown within the site boundary for the current application and the applicant has completed the certificate indicating ownership of the site. It is understood that the current applicant does own the land and that the land dispute relates to specific rights of use of land. Notwithstanding this, it is not possible for planning to resolve or provide an assessment over rights of use as this is a legal matter, determined by the courts where there is dispute.
18. For the purposes of the planning application the information as submitted must be accepted at face value. If the dispute finds in favour of the applicant then parking provision and access to the flats could be lost and it would become incumbent on the landlord of the flats to resolve these issues. And, this proposed scheme, is considered to work in terms of parking arrangements whether there the area in question is provided as parking for the proposed retail unit or whether it remains as parking for the flats.

Other Matters

19. Comment was also made regarding the extinguishment of a public right of way on the site. The Council records do not show an existing public right of way on this site. Private rights of way are a civil matter.
20. Concerns were raised regarding servicing of businesses on Stonehouse Street. This again is a private arrangement between land owners.
21. Question was raised in relation to land ownership along the northern part of the site and the Councils Valuation and Estates Department have confirmed that the land adjacent to the northern boundary is still in Council ownership and no part of the land is included in this application.

Conclusion

22. The proposal has been assessed against local policy and guidance and is considered to be a sustainable form of development that is acceptable in principle. It will not undermine the vitality and viability of the nearby local centre and will not have an adverse impact on the character of the area or on the safe operation of the highway. Given its relationship to surrounding properties and proposed hours of operation it will not have any significant impact on the amenity of nearby residents in terms of noise and disturbance. All other issues raised have been considered. The proposal is considered to be an acceptable form of development fully in accordance with national and local policy and is therefore recommended for approval.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. Time Limit

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. Approved Plans

The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:

- a) Location Plan received 09.02.2021 and,
- b) Proposed Site Plan Drawing No.08 received 24.03.2021
- c) Proposed Floor Plans Drawing No.05 received 09.02.2021
- d) Proposed Elevations Drawing No.06 received 08.12.2020
- e) Proposed Elevations Drawing No.07 received 08.12.2020

Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.

3. Materials - Matching

The materials to be used in the construction of the external surfaces (including windows) of the development hereby permitted shall match those used in the existing building, or shall be in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of the visual amenities of the area having regard for policies DC1, CS4 and CS5 of the Local Plan and section 12 of the NPPF.

4. Car and Cycle Parking Laid Out

No part of the development hereby approved shall be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: To ensure a satisfactory form of development and in the interests of highway safety having regard for policies CS5 and DC1 of the Local Plan and sections 9 and 12 of the NPPF.

5. Construction of Access

The development hereby approved shall not be brought into use until the means of vehicular/pedestrian access from the public highway has been constructed in accordance with the details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate access in the interests of good management of the highway in the interests of free flow of traffic and safety of highway users having regard for policy DC1 of the Local Plan and sections 9 and 12 of the NPPF.

6. Public Access

Public / Customer access to the premises shall only be taken from the western elevation facing Linthorpe Road. There shall be no customer / public access route provided to the highway to the rear of the site at any time whilst the use hereby approved is in operation.

Reason: To ensure the retail function is associated with the Linthorpe Local Centre in the interests of the viability and vitality of the centre and to prevent issues of parking away from the defined parking area, in accordance with the NPPF, including paragraphs 86 and 87.

REASON FOR APPROVAL

This application is satisfactory in that the change of use to retail use accords with the principles of the National Planning Policy Framework (NPPF) and the local policy requirements (Policy DC1, CS4, CS5, CS13 and REG29 of the Council's Local Development Framework). Where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraph 38 of the NPPF (2018).

In particular, the retail use will not prejudice the character and function of the area and does not significantly affect any landscaping or prevent adequate and safe access to the site. The retail use will be consistent with the commercial uses of this location and it will not be detrimental to any adjoining or surrounding properties. The traffic generated, car parking and noise associated with the retail use will not be of a level likely to result in an unacceptable impact on nearby premises.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations, which would indicate that the development should be refused

INFORMATIVES

1. Building materials on highway

The applicant is reminded that building materials shall not be deposited on the highway without the specific consent of the Highway Authority.

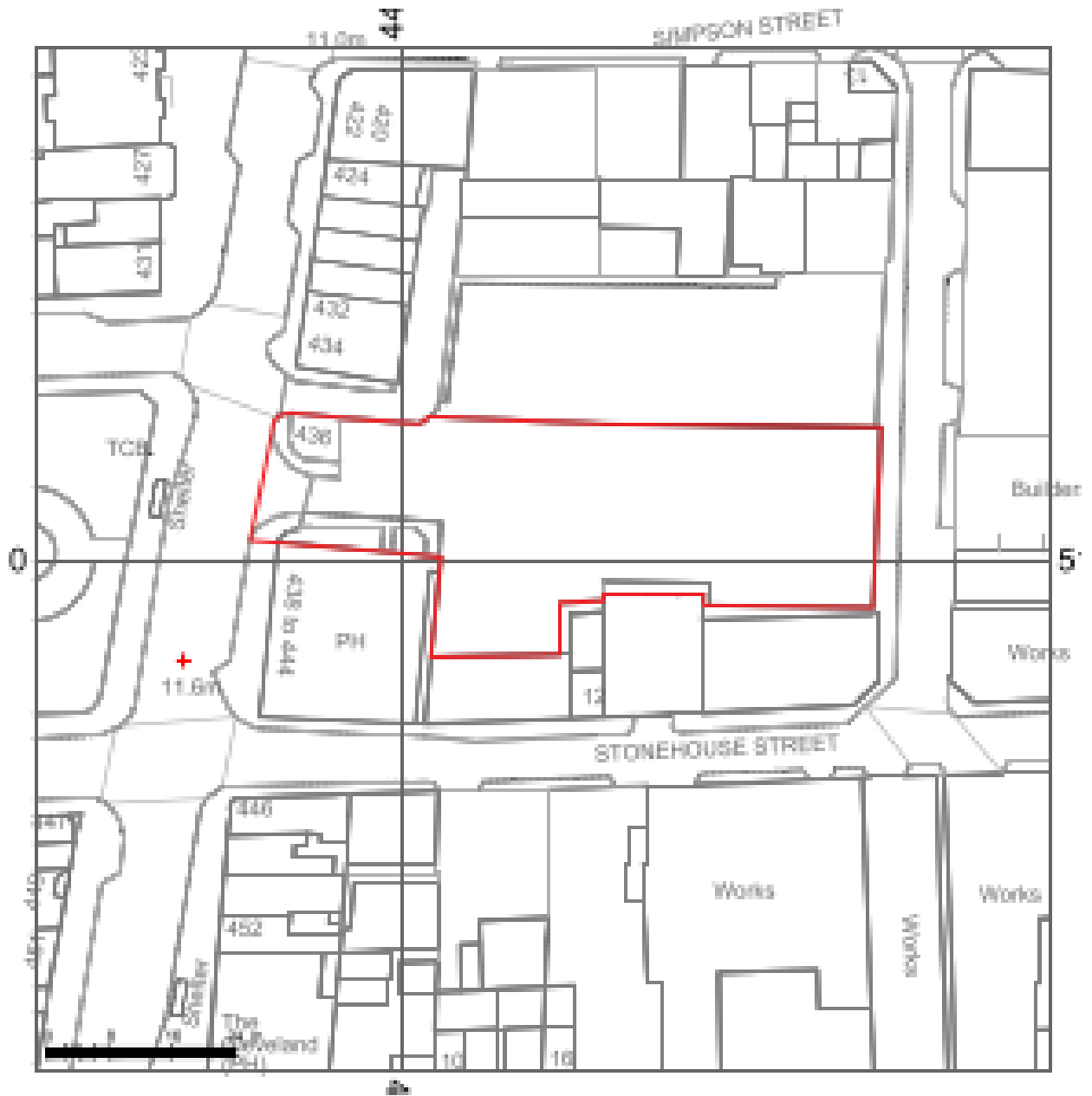
2. Deliveries to site

It should be ensured that, during construction, deliveries to the site do not obstruct the highway. If deliveries are to be made which may cause an obstruction then early discussion should be had with the Highway Authority on the timing of these deliveries and measures that may be required so as to mitigate the effect of the obstruction to the general public

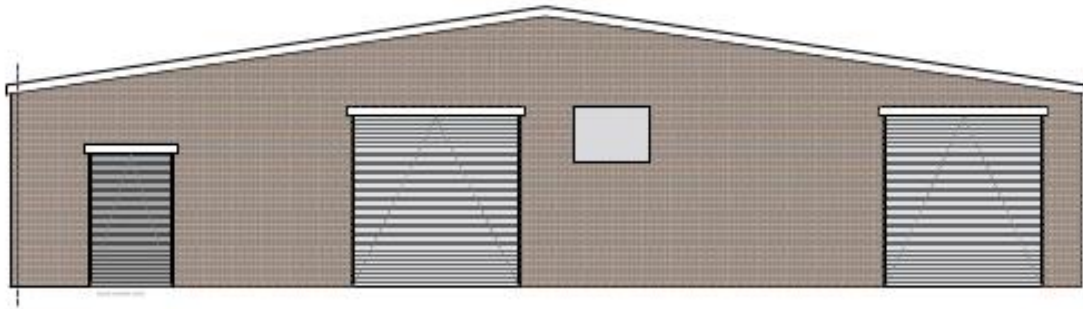
Case Officer: Maria Froggatt

Committee Date: 9th April 2021

Appendix 1: Location Plan



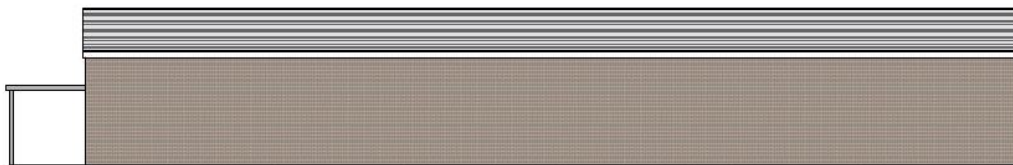
Appendix 3 Elevations



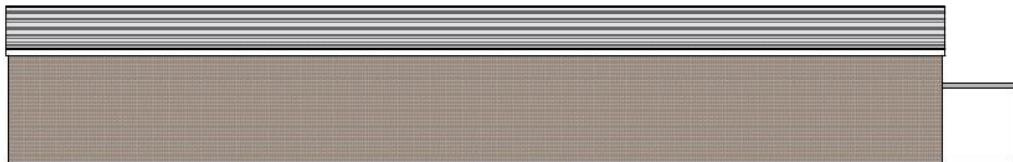
PROPOSED REAR ELEVATION
SCALE 1:50



PROPOSED FRONT ELEVATION
SCALE 1:50



PROPOSED LEFT SIDE ELEVATION
SCALE 1:50



PROPOSED RIGHT SIDE ELEVATION
SCALE 1:50

LEGEND

[Brown Box]	Brickwork
[Green Box]	Green Gable
[Blue Box]	Glass
[White Box]	White
[Grey Box]	Grey
[Black Box]	Black