

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 31 MAY 2016

LINDSAY STREET, KIRRIEMUIR

REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a Review in respect of Conditions 1 and 2 of planning permission 15/01155/FULL for Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use at Petrol Garage and Workshop, Lindsay Street, Kirriemuir.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**);
- (ii) review the case submitted by the Applicant (**Appendix 2**);
- (iii) note the further lodged representations (now withdrawn as of 5 May 2016) (**Appendices 3 & 4**); and
- (iv) consider the applicant's further response (**Appendix 5**).

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

This Report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information from the Applicant and the Planning Authority to review the case. Members may also wish to inspect the site before full consideration of the Appeal.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

5. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

Report Author: Sarah Forsyth
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List of Appendices:

Appendix 1 – Submission by Planning Authority

Appendix 2 – Submission by Applicant

Appendix 3 – Further Lodged Representations

Appendix 4 – Clarification of Withdrawal of Objection

Appendix 5 – Applicant's Response

ANGUS COUNCIL'S SUBMISSION IN RESPECT OF APPEAL AGAINST PLANNING CONDITIONS 1 & 2

APPLICATION NUMBER – 15/01155/FULL

APPLICANT- MR BARRIE EWART

PROPOSAL & ADDRESS – CHANGE OF USE OF LAND FOR SITING OF STORAGE
CONTAINERS ON SITE IN ADDITION TO EXISTING VEHICLE GARAGE USE AT
PETROL GARAGE AND WORKSHOP LINDSAY STREET, KIRRIEMUIR, DD8 5AZ

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Angus Council

Application Number:	15/01155/FULL
Description of Development:	Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use
Site Address:	Petrol Garage And Workshop Lindsay Street Kirriemuir DD8 5AZ
Grid Ref:	338007 : 753665
Applicant Name:	Mr Barrie Ewart

Report of Handling**Site Description**

The application site measures approximately 2500 square metres (sqm) and currently accommodates a petrol station, cars sales and car repair business. The site is located near the western boundary of Kirriemuir, and is lined by the A926 to the north, a football ground to the west, Lindsay Street to the east and residential properties to the south. The site is bound by a low wall to the north and east and a higher stone wall to the south and west.

Proposal

The application seeks planning permission for an additional use, alongside the existing petrol station and cars sales/repair business at the site, to allow for the siting of storage containers. The application is partly retrospective but also seeks permission for the expansion of the storage use across a wider area of the site. No new operational development or vehicular accesses are proposed as part of this application.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The nature of the proposal did not require that the application be the subject of press advertisement.

The nature of the proposal did not require a site notice to be posted.

Planning History

97/00861/FULL for FORMATION OF NEW MOT TEST STATION was determined as "Approved Conditionally" on 12 November 1997.

10/00463/FULL for Alterations to Existing Workshop was determined as "Approved subject to conditions" on 25 June 2010.

Applicant's Case

No supporting information was received.

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - Offer no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Angus Council Environmental Health - Offer no objection to the proposal subject to conditions to safeguard residential amenity.

Representations

Two letters of representations were received, both of which objected to the proposal. The main concerns raised relate to impacts upon residential and visual amenity, expansion of the proposed operation and concerns over children climbing on the storage containers.

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries
 Policy S3 : Design Quality
 Policy S6 : Development Principles (Schedule 1)
 Policy SC17 : Industrial and Business Use

TAYplan Strategic Development plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and subsequently published for a statutory period for representations. The statutory period for representation has now expired and unresolved representations have been submitted to Scottish Ministers for consideration at an Examination. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP (June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to policies and proposals of the plan that are subject to unresolved objection. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation or decision.

Policy S1(a) indicates that proposals within development boundaries on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan. I will return to this policy having considered other relevant policy tests.

As the proposed use would relate to storage facilities, defined as Class 6 in the Town and Country

Planning (Use Classes) (Scotland) Order 1997, Policy SC17: Industrial and Business Use would be relevant to the consideration of this proposal. Policy SC17 permits Class 6 proposals outwith allocated sites within development boundaries where the proposal could be accommodated within existing or planned infrastructure capacity, would not cause detrimental to the surrounding amenity and would accord with other relevant policies of the Local Plan. Due to the nature and relatively small scale of the proposal, which would be contained within an existing business premises it is considered the proposal could be accommodated within existing infrastructure. With regards to surrounding amenity, two objections have been received from residential properties located to the south of the site which raise concerns over disturbance, namely early in the morning and late in the evening, caused by activities associated with the current unauthorised storage containers contained within the site. In this regard the Environmental Health Service has considered the application in terms of noise disturbance and has offered no objection to the proposal subject to planning conditions. The proposed conditions would regulate the hours the storage containers could be used/accessed and the level of noise emissions resulting from that activity. Taking account of the above, with the appropriate planning conditions attached to regulate noise emissions and potential disturbance during unsociable hours it is considered the proposed use would not have an unacceptable impact upon residential amenity.

The introduction of storage containers would not be visually incongruent within the existing commercial premises and it is noted that the application only proposed the areas which are to the rear of the principal elevation of the car sales building for the siting of containers. In order to protect the visual amenity of the area a planning condition is attached to prevent the vertical stacking of containers. It is noted that the area of land across the public road to the north incorporates the siting of storage containers and this is a feature of the immediate area. Based on the above assessment the siting of storage containers on this existing mixed use commercial site, would not result in unacceptable amenity or visual impacts subject to planning conditions. I will return to the remaining test of this policy having considered other relevant policy tests.

Policy S6 and the associated Schedule 1 Development Principles are also relevant to this application. This includes considerations relating to amenity; roads/parking/access; landscaping/open space/biodiversity; drainage and flood risk; waste management; and supporting information. Residential and visual amenity have been discussed and deemed acceptable above. Vehicle access and formal parking arrangements would be unaltered as a result of the proposal and the Roads Service has raised no objection. No new or altered water supply or drainage arrangements are proposed. Existing surface water drainage and waste storage/collection provisions would be utilised. The proposal does not give rise to any significant issues in terms of the remaining criteria of Schedule 1.

Returning to Policy SC17, the proposal is compatible with the relevant policies of the local plan and as such meets with the final criterion of SC17 and would also comply with Policy S1 criterion (a).

The letters of objection submitted in relation to the proposal by third parties are noted and the concerns regarding residential and visual amenity have been addressed above. The hours of operation limitation would prevent commercial access to the containers outwith the hours of 0700-2200. While the permission would allow for the siting of storage containers on the premises, the conditions attached to this permission should ensure that the business is operated in a manner which reflects its location close to housing.

In conclusion the proposed development would allow for the diversification of an established business within Kirriemuir and subject to conditions would not have a significant or unacceptable detrimental effect on amenity. The proposal complies with the relevant policies of the Angus Local Plan Review (2009). There are no material considerations that justify refusal of the application.

No legal agreement is required.

Human Rights Implications

The decision to grant permission/consent, subject to conditions, has potential implications for neighbours

in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Approved subject to conditions

Reason(s) for Decision:

1. That the proposed development would comply with the relevant policies of the development plan subject to the regulatory conditions attached to the permission. There are no material considerations justifying refusal of the application.

Conditions:

1. That all commercial activities associated with the use hereby approved (including the movement of vehicles) shall be limited to between 0700 and 2200 Monday to Sunday.

Reason:

In the interests of residential amenity.

2. That noise emissions from activities associated with use hereby approved shall not exceed 50 dB(A) Leq(1hr) as measured within the external amenity space of any noise sensitive premises.

Reason:

In the interests of residential amenity.

3. That storage containers associated with the change of use hereby approved shall not be stacked more than 1 unit high.

Reason:

In the interests of residential and visual amenity.

Notes:

Case Officer: Stephanie Porter

Date: 24 March 2016

Appendix 1 - Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in

accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:-

- * site location and how the development fits with the local landscape character and pattern of development;
- * proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- * use of materials, textures and colours that are sensitive to the surrounding area; and
- * the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S6 : Development Principles (Schedule 1)

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- (d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- (e) Access to housing in rural areas should not go through a farm court.
- (f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.
- (g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.

(l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

(m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)

(n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

(o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)

(p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

(q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)

(r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC17 : Industrial and Business Use

Outwith allocated sites employment proposals within Use Class 4_ (business), Class 5_ (general industry), and Class 6_ (storage and distribution) may be permitted in locations within development boundaries where the proposal:

- * can be accommodated within existing or planned infrastructure capacity;
- * is not detrimental to the surrounding amenity; and
- * accords with other relevant policies of the Local Plan.

* As defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997.

DEVELOPMENT BOUNDARIES

1.29 Angus Council has defined development boundaries around settlements to protect the landscape setting of towns and villages and to prevent uncontrolled growth. The presence of a boundary does not indicate that all areas of ground within that boundary have development potential.

Development boundaries:

Generally provide a definition between built-up areas and the countryside, but may include peripheral areas of open space that are important to the setting of settlements.

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Public interest: Development would have benefits for the wider community, or is justifiable in the national interest.

Proposals that are solely of commercial benefit to the proposer would not comply with this policy.

DESIGN QUALITY

1.37 High quality, people-friendly surroundings are important to a successful development. New development should add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also

provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity;
- create energy efficient developments that make good use of land
- and finite resources.

1.38 Design is a material consideration in determining planning applications. In all development proposals consideration should be given to the distinctive features and character of the local area. This includes taking account of existing patterns of development, building forms and materials, existing features such as hedgerows, trees, treelines and walls and distinctive landscapes and skylines.

1.39 The preparation of a design statement to be submitted alongside a planning application is encouraged, particularly for major developments or those affecting listed buildings or conservation areas. Early contact with Planning and Transport is recommended so that the requirement for a design statement can be determined.

Designing Places - A policy statement for Scotland – Scottish Executive 2001 This is the first policy statement on designing places in Scotland and marks the Scottish Executive's determination to raise standards of urban and rural development. Good design is an integral part of a confident, competitive and compassionate Scotland.

Good design is a practical means of achieving a wide range of social, economic and environmental goals, making places that will be successful and sustainable.

PAN 68 Design Statements

Design Statements should explain the design principles on which the development is based and illustrate the design solution.

The PAN explains what a design statement is, why it is a useful tool, when it is required and how it should be prepared and presented.

The aim is to see design statements used more effectively in the planning process and to

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- **site location and how the development fits with the local landscape character and pattern of development;**
- **proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;**
- **use of materials, textures and colours that are sensitive to**
- **the surrounding area; and**
- **the incorporation of key views into and out of the development.**

Innovative and experimental designs will be encouraged in appropriate locations.

DEVELOPMENT PRINCIPLES

1.44 The principles in Schedule 1 provide a 'checklist' of factors which should be considered where relevant to development proposals. They include amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information. The Local Plan includes more detailed policies relating to some principles set out. Not all development proposals will require to comply with all of the principles.

Policy S6 : Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles**Amenity**

- a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- b) Proposals should not result in unacceptable visual impact.
- c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- e) Access to housing in rural areas should not go through a farm court.
- f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17: Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary
- g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- k) The planting of native hedgerows and tree species is encouraged.
- l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

Waste Management

- q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38).
- r) Development should minimise waste by design and during construction.

Supporting Information

- s) (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Industrial And Business Use

2.50 Not all business and industrial activities will be located on existing or proposed employment land allocations. Where new employment development is proposed within a settlement, is in a suitable location, and can be accommodated without detriment to amenity, such proposals will normally be welcomed.

Policy SC17 : Industrial And Business Use

Outwith allocated sites employment proposals within Use Class 4* (business), Class 5* (general industry), and Class 6* (storage and distribution) may be permitted in locations within development boundaries where the proposal:

- **can be accommodated within existing or planned infrastructure capacity;**
- **is not detrimental to the surrounding amenity; and**
- **accords with other relevant policies of the Local Plan.**

** As defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997.*

MEMORANDUM

TO: Stephanie Porter, Planning Officer (Development Standards)

FROM: Alan Milne, Environmental Protection Officer

YOUR REF: 15/01155/FULL

OUR REF: Site 183

DATE: 2 February 2016

SUBJECT: Change of Use of Land for Sitting of Storage Containers on Site in Addition to Existing Vehicle Garage Use at Petrol Garage and Workshop Lindsay Street, Kirriemuir.

With reference to the above planning application and your consultation requesting comment regarding contaminated land, I can offer the following.

Available information including historic mapping and aerial photography has been reviewed. I am satisfied that this site does not pose a significant risk of harm to the proposed use from land contamination.

I do not require any further information regarding contaminated land.

ANGUS COUNCIL

**COMMUNITIES
PLANNING**

CONSULTATION SHEET

PLANNING APPLICATION NO

15/01155/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

01	02	16
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**PLEASE DO NOT TAKE AWAY THE LAST SET OF PLANS WHERE POSSIBLE COPIES
WILL BE PROVIDED ON REQUEST**

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX

From:GrahamIH

Sent:Mon, 15 Feb 2016 11:06:12 +0000

To:PorterSG

Cc:ThomsonSD

Subject:15/01155/FULL - Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use | Petrol Garage And Workshop Lindsay Street Kirriemuir DD8 5AZ

Steph

As per our conversation regarding the above application I can confirm that I have looked at the information and undertaken a site visit. The application site is a commercial garage used for car repairs, car sales and a petrol station and I understand from the applicant that some of the storage containers to which this application relates have been used on the site for a number of years.

Notwithstanding the above it is noted that some of the storage containers are situated at the boundary shared with residential properties at Westfield and as discussed this Service has concerns that 24 hour access to these containers may give rise to significant adverse impacts affecting the amenity of these properties; indeed 2 objections have been received from residents citing existing noise disturbance due to courier companies accessing the containers early in the morning. Whilst accepting that the application site already permits a mixed commercial usage this Service would request that the following conditions are attached to any permission granted in order to safeguard the amenity of adjacent residential properties.

- That use of the buildings to which this permission hereby relates shall be restricted to storage purposes only unless otherwise agreed in writing by the planning authority.
- That all commercial activities associated with this development, including the movement of vehicles to and from the site, shall be limited to between 0700 and 2200 Monday to Sunday unless otherwise agreed in writing with the Planning Authority.
- That noise emissions from activities associated with this development shall not exceed 50 dB(A) Leq(1hr) as measured within the external amenity space of any noise sensitive premises.

I trust you find the above acceptable. Should you wish to discuss any matter further please do not hesitate to contact me.

Regards

Iain

Iain Graham | Environmental Health Officer | Angus Council | Communities | Regulatory and Protective Services | County Buildings, Market Street, Forfar, DD8 3WE | 📞01307 473347

Comments for Planning Application 15/01155/FULL

Application Summary

Application Number: 15/01155/FULL

Address: Petrol Garage And Workshop Lindsay Street Kirriemuir DD8 5AZ

Proposal: Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use

Case Officer: Stephanie Porter

Customer Details

Name: Mr Ross Haggart

Address: 17 Westfield Kirriemuir

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My main objection to these containers relates to the close proximity of residential homes. The containers are directly outside my 11 year old sons bedroom window and you can hear people working in the containers in the early hours in the morning and late in the evening. People generally work without much consideration for the people living meters away. This is activity you would normally expect in an industrial estate not directly opposite residential homes. Along with the anti-social hours of activity, the containers themselves are unpleasant to look at. We feel as if we are living in an industrial estate, with the containers adding height to an already large wall lining the homes. On regular occasions, particularly during the summer months we also have children climbing the containers, running back and forth and entering gardens. This is dangerous to the children and causes a disturbance.

RECEIVED

- 8 FEB 2016

PLANNING & PLACE
COUNTY BUILDINGS
14KWD. Wigeta,
19 Westfield,
Kerriemuir,
DD8 5AZ

Dear Sir,

I have just received notice, of the proposed development at Petrol Garage and Workshop in Lindsay Street, Kerriemuir.

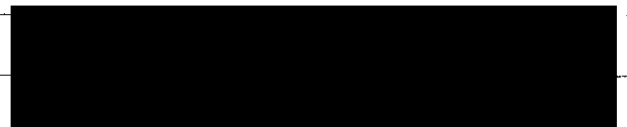
At the moment, my bedroom window looks on to a row of storage containers, not more than around twelve feet away, with just a wall between us.

I am constantly awakened by "Hermes" transport vans, loading up in the early mornings and over Xmas some times at 5-30AM.

Surely it would make more sense, to move these containers away from tenants windows, to the site in Martin Park, where there are already some of these situated.

I am objecting on the grounds of noise, nuisance, and compatibility to further containers being situated here.

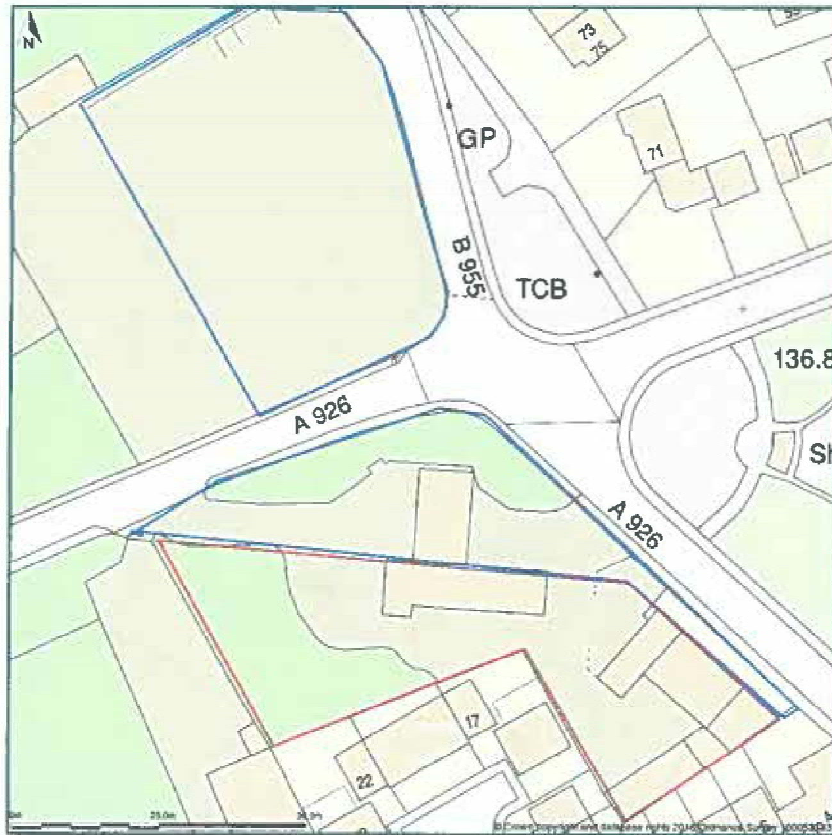
Yours faithfully





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This map is supplied for the purpose of the particular application only.

Autosales, Lindsay Street, Kirriemuir, DD8 5AP



Site Plan shows area bounded by: 337928.42, 753638.81 338069.84, 763780.23 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

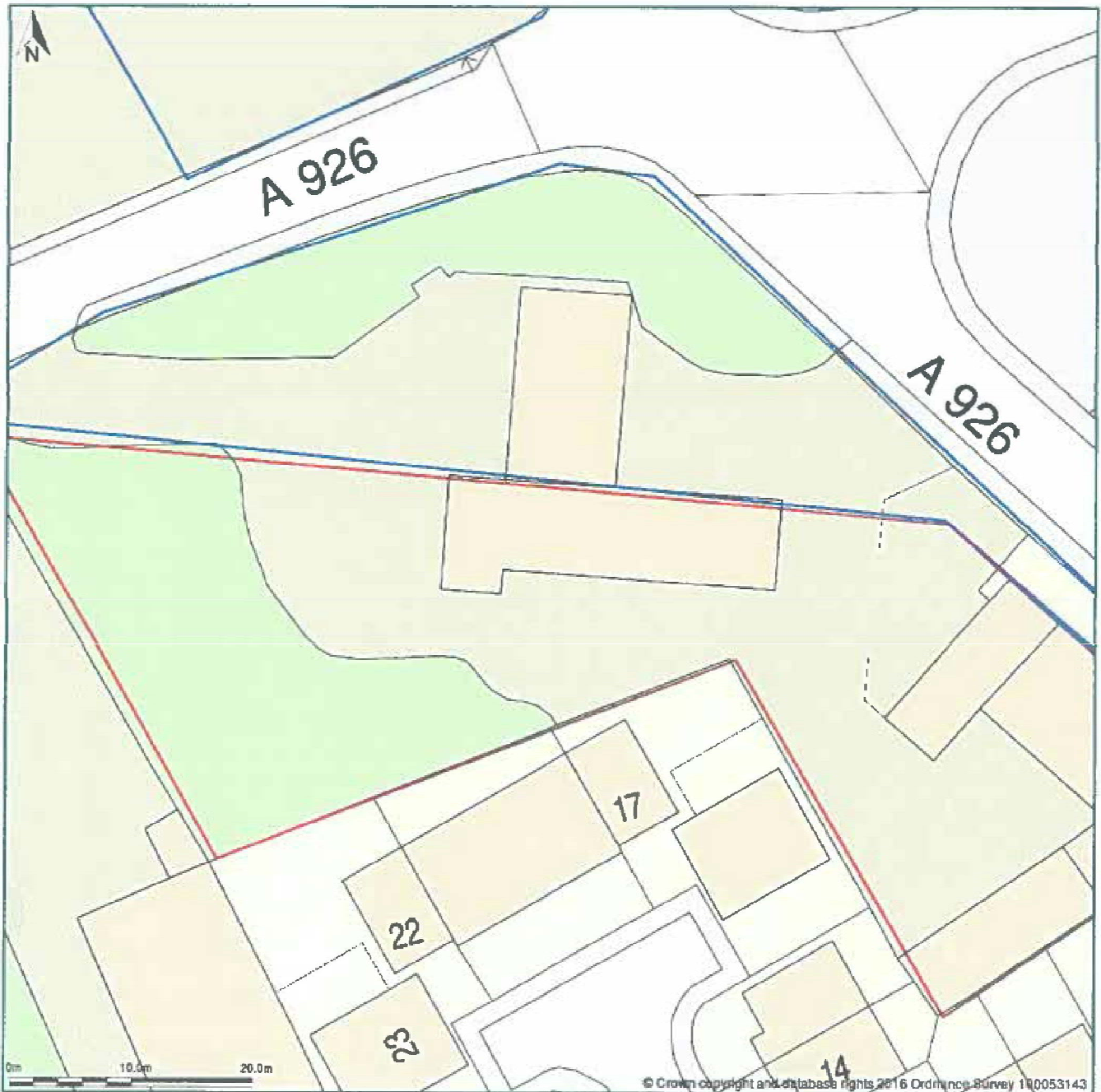
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Town & Country Planning (Scotland) Act 1997 As Amended

APPROVED ON BEHALF OF THE ANGUS COUNCIL
SUBJECT TO THE CONDITIONS SET FORTH IN
INTIMATION OF PERMISSION

Autosales, Lindsay Street, Kirriemuir, DD8 5AP



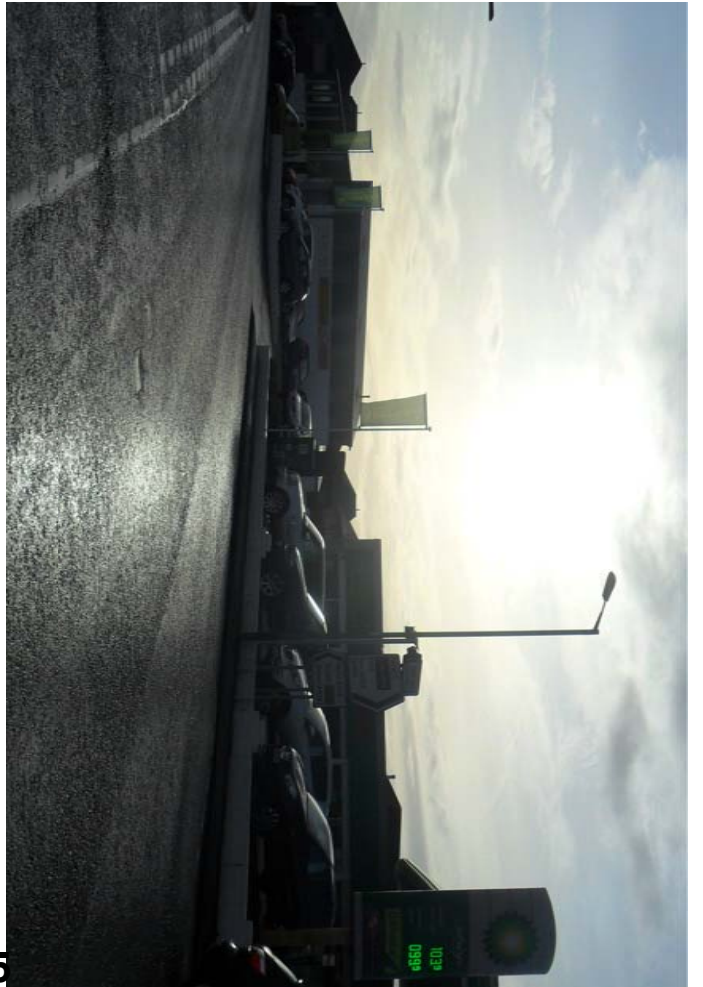
Block Plan shows area bounded by: 337956.21, 753634.66 338046.21, 753724.66 (at a scale of 1:500) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

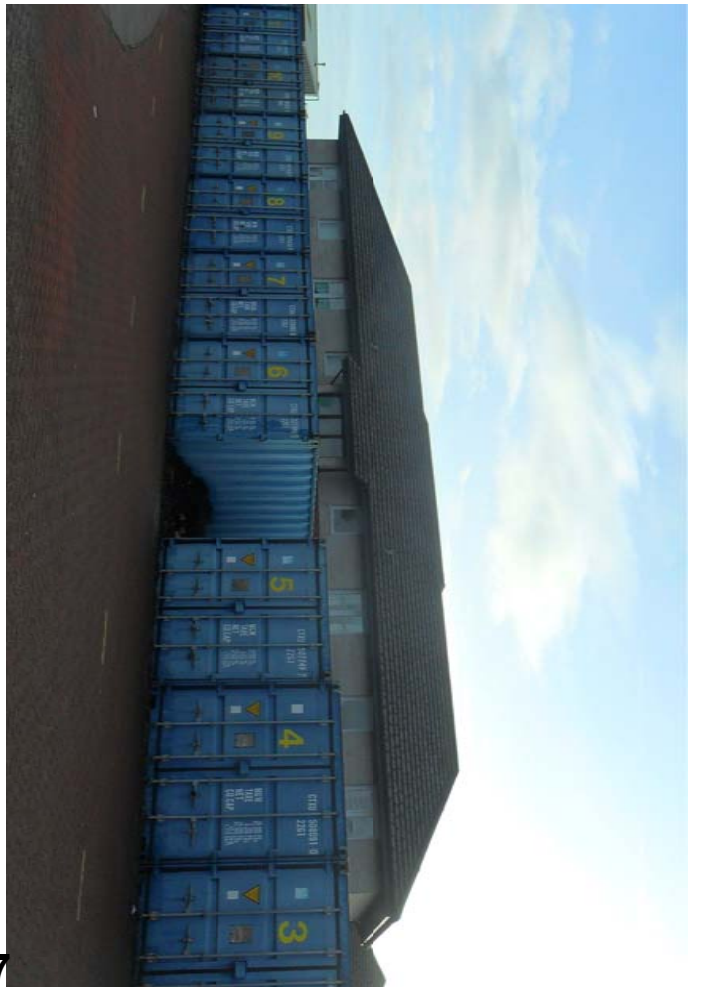
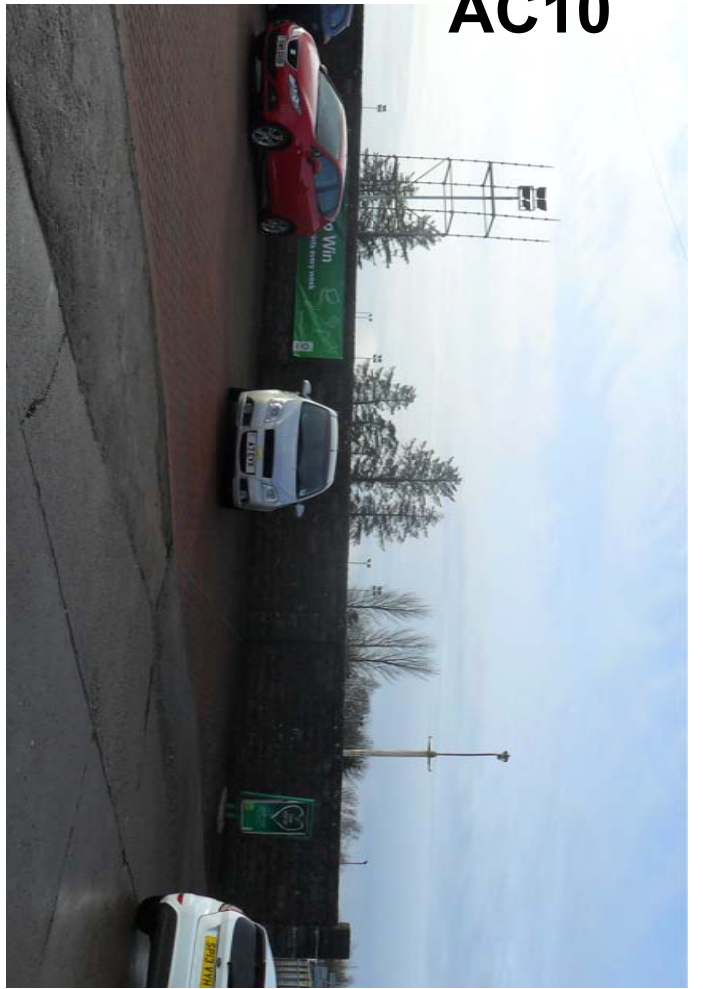
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Town & Country Planning (Scotland) Act 1997 As Amended

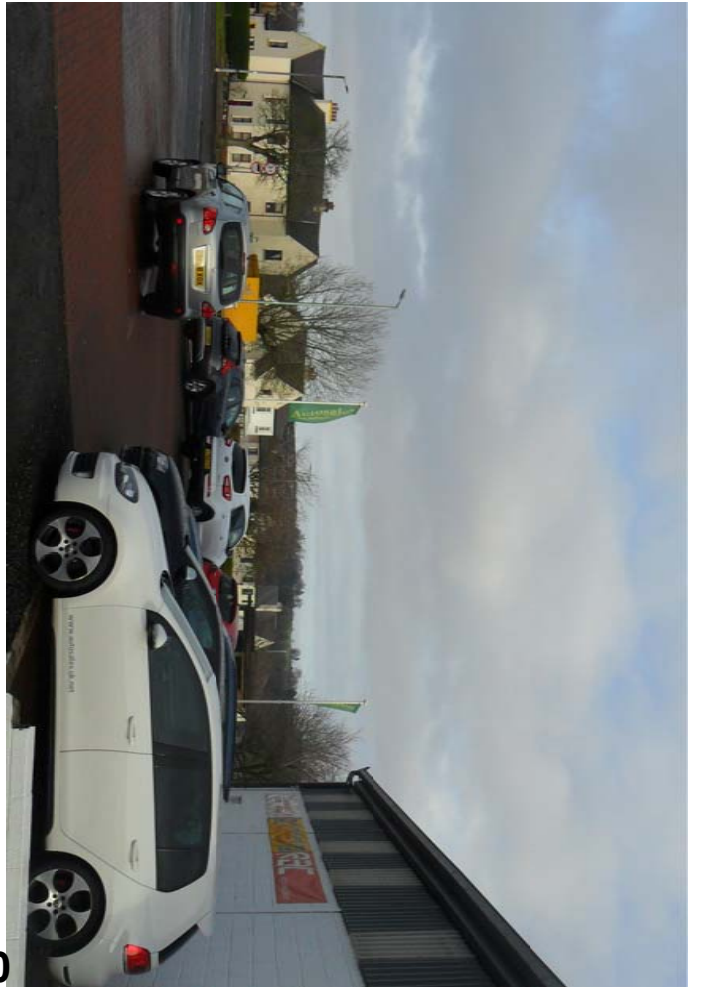
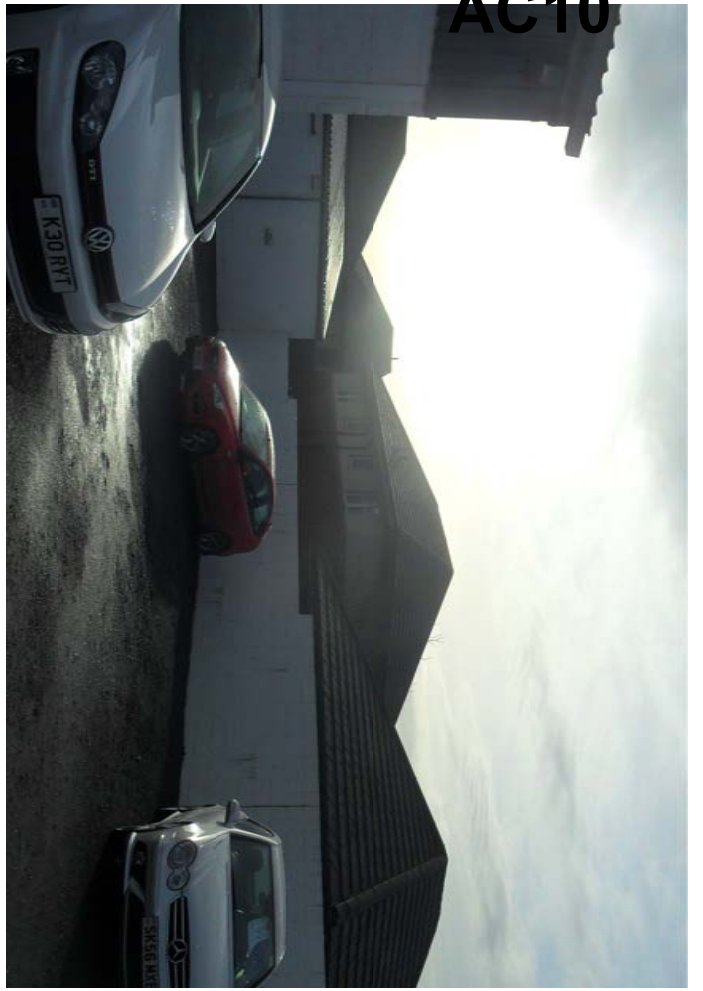
APPROVED ON BEHALF OF THE ANGUS COUNCIL
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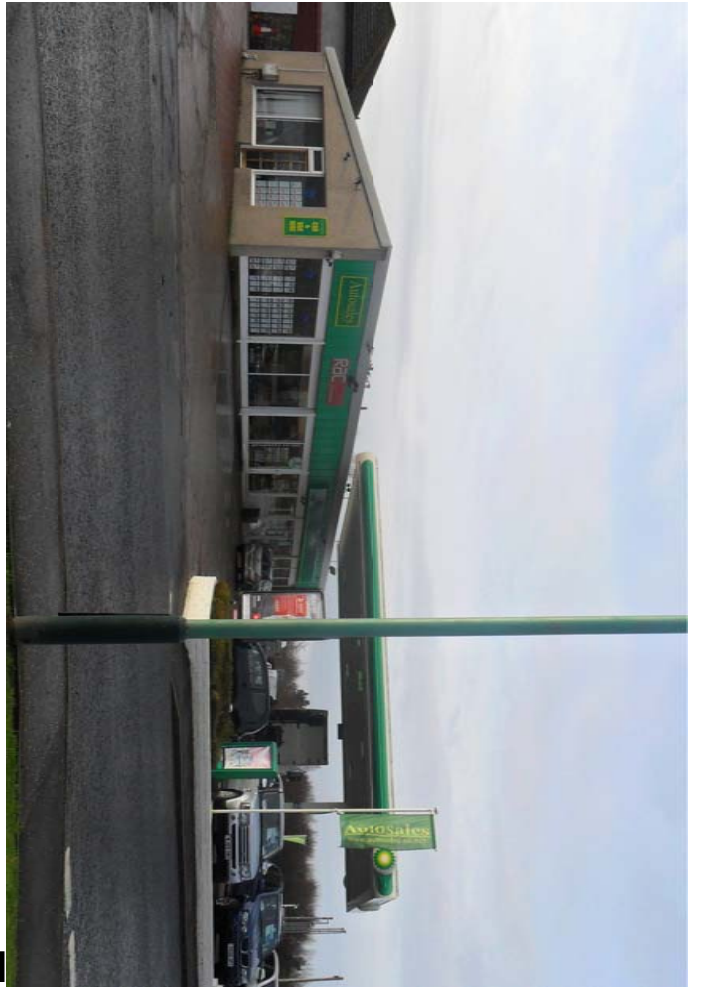
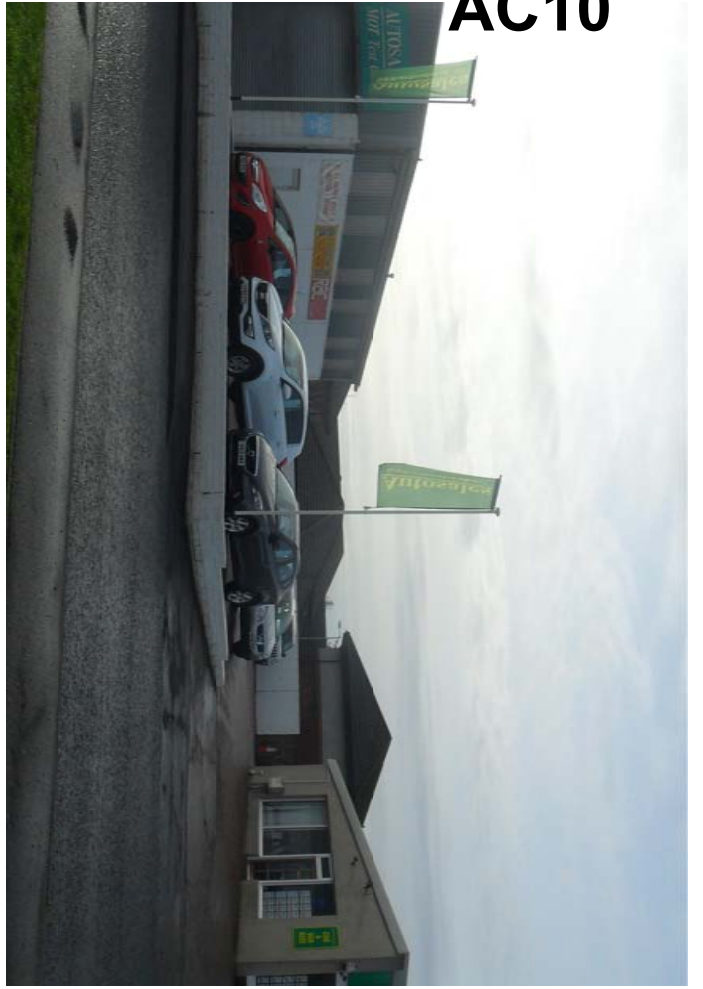














ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (SCOTLAND) REGULATIONS 2013PLANNING PERMISSION - CONDITIONAL APPROVAL
Reference 15/01155/FULL

To: **Mr Barrie Ewart**
Autosales
Lindsay Street
Kirriemuir
DD8 5AP

With reference to your application dated **28 January 2016** for planning permission under the above mentioned Acts and Regulations for the following development viz:-

Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use at Petrol Garage And Workshop Lindsay Street Kirriemuir DD8 5AZ for Mr Barrie Ewart

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as approved on the Public Access portal.

The permission is subject to the following conditions, namely:-

- 1 That all commercial activities associated with the use hereby approved (including the movement of vehicles) shall be limited to between 0700 and 2200 Monday to Sunday.
- 2 That noise emissions from activities associated with the change of use hereby approved shall not exceed 50 dB(A) Leq(1hr) as measured within the external amenity space of any noise sensitive premises.
- 3 That storage containers associated with the change of use hereby approved shall not be stacked more than 1 unit high.

The foregoing conditions are imposed by the Council for the following reasons :-

- 1 In the interests of residential amenity.
- 2 In the interests of residential amenity.
- 3 In the interests of residential and visual amenity.

The reason(s) for the foregoing decision by the Council are as follows:-

1. That the proposed development would comply with the relevant policies of the development plan subject to the regulatory conditions attached to the permission. There are no material considerations justifying refusal of the application.

Dated this **24 March 2016**

Iain Mitchell
Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

NOTES

The decision was based on the following amendment(s):-

Amendments:

The application has not been subject of variation.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 as amended.

WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**CHANGE OF USE OF LAND FOR SITING OF STORAGE CONTAINERS
ON SITE IN ADDITION TO EXISTING VEHICLE GARAGE USE AT
PETROL GARAGE AND WORKSHOP, LINDSAY STREET, KIRRIEMUIR**

APPLICATION NO 15/01155/FULL

APPLICANT'S SUBMISSION

- ITEM 1** Notice of Review
- ITEM 2** Appeal Statement (ACP Doc 1)



County Buildings Market Street Forfar DD8 3LG Tel: 01307 461 460 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100007704-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Autosales"/>
First Name: *	<input type="text" value="Barrie"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Ewart"/>	Address 1 (Street): *	<input type="text" value="Autosales"/>
Company/Organisation	<input type="text" value="Autosales"/>	Address 2:	<input type="text" value="Lindsay Street"/>
Telephone Number: *	<input type="text" value="01575572404"/>	Town/City: *	<input type="text" value="Kirriemuir"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DD8 5AP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="info@autosales.uk.net"/>		

Site Address Details

Planning Authority:

Angus Council

Full postal address of the site (including postcode where available):

Address 1:

PETROL GARAGE AND WORKSHOP

Address 2:

LINDSAY STREET

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

KIRRIEMUIR

Post Code:

DD8 5AZ

Please identify/describe the location of the site or sites

Northing

753680

Easting

338006

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of Use of Land for Siting of Storage Containers on Site in Addition to Existing Vehicle Garage Use | Petrol Garage And Workshop Lindsay Street Kirriemuir DD8 5AZ

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

I want to appeal against the first 2 conditions of the granted application. They are imposed "In the interests of residential amenity" however the site at Autosales has been established since the late 1940s and the adjoining residential properties were only built around 1997. The area has been industrial with all associated activities, movement and noise long before the residential properties were allowed. Perhaps the planning authority should have considered - continued on supporting document

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

The permission applied for was at the request of the local authority even though we had proved beyond reasonable doubt that the containers had been on site for more than 10 years without complaint from anyone. The officers involved, Fraser MacKenzie, Stephanie Porter and Ed Taylor, had all assured me it was simply a formality and there was no need to submit a supporting case. I have been misinformed by these officers and feel there was a deliberate attempt to disrupt my business.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

ACP doc1 - continuation document of disagreement with conditions.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

15/01155/FULL

What date was the application submitted to the planning authority? *

28/01/2016

What date was the decision issued by the planning authority? *

24/03/2016

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Barrie Ewart

Declaration Date: 28/03/2016

ACP Doc1

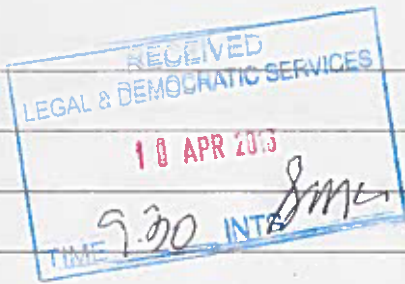
I want to appeal against the first 2 conditions of the granted application. They are imposed "In the interests of residential amenity" however the site at Autosales has been established since the late 1940s and the adjoining residential properties were only built around 1997. The area has been industrial with all associated activities, movement and noise long before the residential properties were allowed to be built. Perhaps the planning authority should have considered / the surrounding businesses before granting permission for the adjacent residential properties?

The business operated at Autosales has a working day which starts around 5am and finishes with the fuel facility closing just after 11pm. During the closed hours we have deliveries of bread, milk, newspapers and often fuel so with the restriction of traffic movement on site between 10pm and 7am would require us to shorten the working day and restrict deliveries to site. Frankly, it would not be possible for us to operate under such restrictions. I would be happy to implement noise reduction measures if possible but this is a commercial business relying on overnight deliveries and has been for 65 years without complaint.

I have studied both letter's of objection and both appear to be under the impression that we were applying to introduce a substantial number of extra containers, therefore increasing the noise and nuisance level - which was never the intention. Ms Wighton's letter states she is objecting about "the compatibility to further containers being situated here" which indicates she is unaware this was a "retrospective" application for the existing facility of more than 10 years. Mr Haggart is mainly concerned with kids climbing onto the containers - which I am also concerned about. He might be better to report to the police and I would be grateful of his assistance although I can think of only one such incident in the last 10 plus years of the containers being on site.

In conclusion, this has been a major inconvenience to a long established local business in an effort to comply with legislation. The original complaint was from an observation made by a planning officer and not a member of the local community - an officer who seems to be particularly interested in our activities! We are trying to operate a compliant business but have been badly advised, badly guided and badly treated by the local planning staff. I feel there is no justification for the imposed restrictions and would like them to be removed from the consent granted.

**FURTHER LODGED
REPRESENTATIONS**



19 Westfield,
Kwiniemine,
Angus.
DOB 5A2

14-4-16

Dear Mr. Forsyth,

Thank you for your letter, dated the 5th April 2016, that was in response to my objections, to Mr. Ewants application, for change of use of land at his garage.

I am still objecting to the hours of 07-00 - 2200 each day of the week including weekends.

This is unacceptable, as 07-00 is far too early to be wakened and 22-00 is too late for tenants with small children.

I am quite sure, that Mr. Ewant wouldn't put up with this at his home, and I can't believe this selfish attitude!!

I hope that a reasonable solution can be found.

Yours.

19 MAY 2015

TIME 9:35 INTS AC

APPENDIX 4

19 Westfield
Kinnear
Angus

DD8 5AZ

5-5-16

Dear Sarah,

Following my phone call with you today, I wish to confirm, that I no longer have any objection to Mr Barrie Ewart's Planning proposals.

Mr. Ewart and I have discussed this issue, and Mr Ewart has agreed to re-locate the containers that was causing problems for me.

As I have no other concerns, regarding any other matter on the Garage Site, I would be grateful if you would withdraw my objections

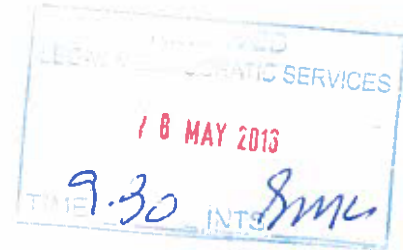
Yours faithfully



Autosales*Lindsay Street**Kirriemuir, DD8 5AP**Tel: (01575) 572404 Fax: (01575) 574235*

5th May 2016

Sarah Forsyth
 Angus Council
 Orchardbank Business park
 Forfar
 DD8 1AN



Ref: Planning approval appeal 15/01155/FULL

I write in response to correspondence from Doreen Wighton which you passed to me.

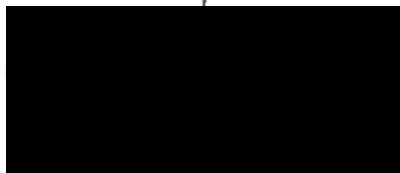
I have spoken to Doreen over the past few days and we have come to a neighbourly conclusion about the early morning deliveries. I have given assurance that any disturbance will cease within the next few weeks and in return she has offered to withdraw any objection previously registered in relation to the application.

Although I have had no direct contact with Mr Haggart, who also objected, I have written to him extending my assurance about the noise levels. I have also asked him to officially withdraw his objection and hope he will take the time to do so.

As I have proactively dealt with the objections put forward and demonstrated that a direct approach between neighbours can bring an amicable agreement, I ask the planning department to remove the first 2 conditions of the granted application. The conditions are detrimental to the daily running of a "local small business", exactly the type which Angus Council openly promote and pledge to support.

I still contest the legality of the request for an application in the first place but have complied with your requests at all stages.

Regards



Barrie Ewart

