

Planning and Rights of Way Panel 20th April 2021
Planning Application Report of the Head of Planning & Economic Development

Application address: Itchen Business Park, Kent Road, Southampton			
Proposed development: Change of use of the land for car sales and construction of ancillary site office and workshop (retrospective).			
Application number:	21/00101/FUL	Application type:	FUL
Case officer:	Mathew Pidgeon	Public speaking time:	5 minutes
Last date for determination:	19.03.2021 (Extension of time 27 th April 2021)	Ward:	Portswood
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Mitchell Cllr Savage Cllr Cooper
Applicant: DSG Car Sales		Agent: Goadsby Planning	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Permission.

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including impact on the highway network, residential amenity and neighbouring business operations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2019). Policies - SDP1, SDP7, SPD9, SDP16, NE1, NE2, NE4 and NE5 of the City of Southampton Local Plan Review (Amended 2015) and policies CS7, CS13, CS18, CS19, CS22 and CS23 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached	
1	Development Plan Policies
2	A simplified guide to lorry types and weights with Images

Recommendation in Full

Conditionally Approve subject to confirmation in writing from the applicants before Panel determination (20th April 2021) that the site can be serviced by delivery car transporters with not more than 2 axels and not more than 11.2m in length. In the event that this information is not forthcoming then delegation given to the Head of Planning and Economic Development to refuse planning permission.

1 Background & Current Uses

- 1.1 The Planning Panel have recently considered other planning applications at the Itchen Business Park, as detailed in Section 5 of this report.
- 1.2 This retrospective application has been submitted following a planning enforcement enquiry from December 2020. The enquiry was initiated as a result of alleged harm caused by large/heavy commercial vehicles, associated with the proposed storage use/car sales use, using Kent Road to access and egress the site. Site access is the principal issue for consideration of this planning application.
- 1.3 *It should be noted that lorries are permitted to use any classification of road for access and deliveries.* HGVs currently use Kent Road to service the Wastewater treatment works, business premises within Itchen Business Park and to serve housing within the street (deliveries/removals/refuse collection). There are no parking restrictions within Kent Road and vehicles can park on either side of the street, however any vehicle owner parking in a manner that obstructs the flow of traffic (including any vehicles permitted to use the road), is at risk of a penalty fine under Section 137 of the Highways Act 1980. It is understood that TRO parking restrictions could be introduced to remove some kerbside parking from Kent Road to ensure parked vehicles do not obstruct all permitted vehicles using Kent Road, however such a measure would require public consultation with local residents and does not form part of this recommendation.
- 1.4 This report refers to a number of different standard vehicle sizes (on the basis of the number of axels) and for clarity a simplified guide to lorry types and weights from the Drivers and Vehicle Standards Agency is provided at **Appendix 2**, along with an image showing an example of a 2 axel car transporter.
- 1.5 The applicant's business 'DSG Car Sales', which operates out of the application site, have used various vehicles to transport cars to and from the site. Whilst the business has been serviced by larger car transporters up to this point, the operators have indicated that the site could be serviced by smaller 2 axel car transporters (up to 11.2m in length) which can manoeuvre within the business park without prejudicing pedestrian safety or causing obstruction to traffic serving other businesses. The applicant's planning agent has indicated that they would accept a planning condition to restrict deliveries by car transporter to not more than one per week and by vehicles of the aforementioned size. However, at the time of writing this report, the applicants

have yet to confirm that their suppliers or deliverers have 11.2m length/2 axel car transporters within their fleets and an update will be provided at the Panel meeting as required by the above recommendation.

- 1.6 The planning application seeks a change of use from car parking for cruise liner and airport customers (granted by permission 03/01020/FUL) to car sales (*sui generis* use).
- 1.7 To the south of the site and also within the Business Park are two other plots which have also been the subject of retrospective planning applications. One for a warehouse and distribution use (Bryonswell, 19/01469/FUL), which was refused at panel (05/11/2020) and which is currently the subject of an appeal that is yet to be determined; and the other relates to a storage and distribution of pallets (Palletmove, 20/00954/FUL) which was approved by planning panel subject to conditions.
- 1.8 Bryonswell collects donated clothes and textiles for resale. This business uses articulated vehicles (3 axels or more) to transport sorted goods to continental Europe. The planning refusal, made by panel, agreed with officers recommendation that the proposed operation would have a harmful impact on neighbouring business operations and sewage disposal, associated with the Portswood Waste Water Treatment Works and highways safety owing to the failure of acceptable HGV parking required for loading and unloading purposes.
- 1.9 Palletmove was established in 2015 and specialises in the supply of pallets across Southern England. Currently the company are the main source of pallets to the NHS and NHS related businesses. The decision, made by panel, agreed with officers that the proposed operation was acceptable on the basis that the vehicles used by Palletmove were limited to a maximum of three axels only, operational hours of 08.00 - 16.00 Mon – Fri; loading/unloading, storage and parking to only occur within the boundary of the fenced site enclosure.
- 1.10 To the north of the site is Portswood Waste Water Treatment Works. The works benefit from a historic planning permission whereby there are no restrictions on the type/size or number of vehicles used to service the site.

2 The site and its context

- 2.1 The site is formed of part of the former Portswood Waste Water Treatment Works that has since become the Itchen Business Park, which alongside the Portswood Waste Water Treatment Works is accessed from Kent Road. The site was formally used for the parking of vehicles for cruise liner and airport customers. The site has a hard surface and is bounded by 2m high palisade fencing and measures approximately 0.12 hectares.
- 2.2 The site topography is flat and fronts an access road that connects with Kent Road and Saltmead, to the west. It is to the north of Leornian House, which is comprised of commercial businesses and a community use. The five other

operators within the Business Park are:

1. Ash creative wireless electronics,
2. Wessex drivability, a charity who specialise in helping disabled or those with a disability to drive independently,
3. Covenant Church; and
4. Bryonswell – subject of a planning appeal following the refusal of application LPA ref: 19/01469/FUL
5. Palletmove – approved 16/10/2020 (LPA ref: 20/00954/FUL)

2.3 The site is situated within the northern part of Portswood, immediately to the west of the River Itchen. To the north are filtration tanks and an open area used by Southern Water. The Southampton to London railway line is to the west. There are houses to the south, accessed from Saltmead. This also provides access into the site. Kent Road is a narrow resident's street which links to the arterial St Denys Road (A3035) to the south and to Portswood Road to the north via a railway and road bridge. There is a height restriction for vehicles passing under the railway and road bridges to the north of 8ft 9in (2.6m).

2.4 To the south is an area of mature landscaping, beyond which is the residential estate of Saltmead located 55m to the south.

2.5 Narrow residential streets surrounding the site result in a high percentage of parked vehicles straddling the pavement. Kent Road is the main vehicle route used by large commercial vehicles associated with Southern Water's waste water treatment works and other commercial vehicles, including large vehicles (three or more axels) visiting the business park. The access road to the south of the application site includes a turning head for larger vehicles at the western end.

3 Proposal

3.1 Retrospective planning permission is being sought for the change of use of the land from surface parking for cruise liner and airport customers (*sui generis use*), to a car sales use (also *sui generis*) which supports 2 full time jobs. Planning enforcement action is held in abeyance awaiting the outcome of this application in line with our adopted Enforcement Policy.

3.2 The site principally accommodates surface storage of cars in rows behind a security fence and gates. There is also one single storey building, in use as offices and for minor (ancillary) vehicle repairs. As well as the change of use permission is also being sort for the building.

3.3 The business operates from 08:00 – 17:00 Monday to Saturday and 09:00 – 16:00 on Sundays and Bank Holidays.

3.4 A mix of vehicle delivery vehicles and times have been used since the business first started operating from the site. Following the submission of the application additional plans have been received showing that a two-level car transporter HGV, of no more than 2 axels (max 18 tonnes), can be used to

access and deliver vehicles to the site, with turning area, loading and unloading provided within the Business Park and in a position that would not restrict access to other businesses premises including Southern Water's waste water treatment works.

4 Relevant Planning Policy

4.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4.3 The National Planning Policy Framework (NPPF) states in section 6. 'Building a strong, competitive economy' paragraph 80: *'Planning policies and decisions should help create the 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.'*

4.4 Paragraphs 109 and 110 of the NPPF sets out clear circumstances when planning applications should be prevented or refused on highway grounds indicating:

'109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

110. Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and*

- emergency vehicles; and*
- e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.'*

5 Relevant Planning History

- 5.1 As the Panel will be aware the site has a long and complex planning history. The earliest planning history for the site, detailing the use as a waste water treatment works, held by the City Council, is 1959 whereby an extension to the existing works was approved.
- 5.2 Planning permission 960043/7072/W was granted on 12th March 1996 for the change of use of part of the wastewater treatment works site to an area proposed for the storage of materials and plant and operated by 'Pipeworks Ltd. The permission was granted having consideration to the applicant's personal circumstances and accordingly a restrictive condition was added so that the operation of the site for vehicle parking and material/plant storage could occur only for the benefit of 'Pipeworks' (condition 3 refers). Other conditions were also applied, including hours of use.
- 5.3 In 2013 retrospective planning permission was granted for part of the former waste water treatment works to be used as an area for car parking for cruise ship and airport passengers (13/01020/FUL). The application covered the site area associated with the Pipeworks consent as well as an additional area to the south east. Condition 3 specified that the use allowed the parking of a maximum of 125 cars and for the car parking layout to be in accordance with the submitted and approved plans.
- 5.4 Once the car parking for cruise ship and airport passengers use of the site had ceased part of the open storage area previously used for vehicle storage became occupied by McNicholas Construction Services Ltd. McNicholas used the site for the storage of construction related equipment and vehicles needed to service their development projects within the local area/region. This use didn't secure the correct planning consents.
- 5.5 A planning enforcement notice (EN), dated 1st December 2017, was served on McNicholas as the Council considered that a breach of planning control had occurred in the past 10 years. The breach of permission being the use of the land for the storage of plant, equipment and vehicles (B8 use) rather than the permitted storage of cars associated with cruise ship and airport customers (*sui generis* use).
- 5.6 The enforcement notice was appealed by McNicholas, however the appeal was dismissed by the inspector who agreed with the council that there had been a breach of planning control on the site on the basis that car parking for cruise ship and airport passengers is a *sui generis* use. The Inspector did not consider the merits or otherwise of the site's vehicular access.
- 5.7 Part of the waste water treatment works site was also proposed to be re-developed into 41 dwellings in 2007 however the application was not

supported.

- 5.8 Within the waste water treatment works itself there have recently been two planning applications that have been approved by the Planning and Rights of Way Panel. The first, in June 2018, was granted for the construction of a 20 Mega Watt gas standby facility and in January 2020 planning permission was granted for the construction and operation of a motor control centre kiosk, poly dosing kiosk and polymer powder handling kiosk (3 detached buildings) These developments facilitated the operation of two centrifuges which removes water from sewage thus reducing its volume prior to further processing and disposal. Within the application approved in January 2020 it was confirmed that there would be a total of 24 HGV trips associated with the improved dewatering process on site (12 in and 12 out) per week. The use of the infrastructure was set to start in April 2020 given that that date would see the end of the operational lifespan of the existing barge used to transport liquid waste (sewage sludge).
- 5.9 Retrospective planning permission was also applied for on the neighbouring site to the south, which is being used in association with the business 'Bryonswell' (19/01469/FUL). The application was refused 05/11/2020 and the decision is now the subject of an appeal which, at the time of writing this report, was yet to be determined. The application was refused because there was insufficient space to park articulated vehicles associated with loading and unloading without guaranteeing clear access to other businesses (including Southern Water) in the Business Park and associated potential harm to highways safety.
- 5.10 'Palletmove' were granted retrospective permission (20/00954/FUL) on 16/10/2020. The decision, made by planning panel, limited vehicles associated with the business to a maximum of three axels only (although the majority of the trips are by vehicles with two axels), operational hours of 08.00 - 16.00 Mon – Fri and loading/unloading, storage and parking only to occur within the boundary of the fenced site enclosure.

6 Consultation Responses and Notification Representations

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice 05.03.2021. At the time of writing the report **9 representations** have been received from surrounding residents. The following is a summary of the points raised:
- 6.2 ***Kent road and Priory road cannot support the weight and size of large/heavy commercial vehicles (in particular articulated vehicles) resulting in damage to roads, private vehicles and houses. The company has frequently used HGVs carrying cars although said that it would not do so. Vehicle speeds also generate noise and vibration.***

Response

- Damage to houses and cars locally cannot be categorically attributed to

traffic associated with the business. Residents would need to settle any disputes with businesses as a civil matter.

- The Highways Development Management Team do not object to the application on the basis of road damage. There are no weight restrictions or limits on local roads preventing access by large/heavy commercial vehicles
- The anticipated number of large/heavy commercial vehicles visiting the site is not considered to be significant when judged against, and in tandem with, the number and size of southern water related tankers visiting the site.
- A planning condition limiting the size of vehicles to 2 axels can be applied and has been agreed by the applicant's agent.
- Driver behaviour, and highway laws, rather than planning permission, will control traffic speeds.
- Separate legislation is used to enforce traffic speed.

6.3 *The need for large vehicles to access the site results in private vehicles being parked on the pavement causing an obstruction. Pram and wheelchair users must use the road resulting in reduced highway safety. The council and police do not enforce against this behaviour.*

Response

- Larger vehicles are permitted to use Kent Road for access, refuse collection, and deliveries. There are no parking restrictions within Kent Road and vehicles can park on either side of the street – see Background section above.

6.4 *Contrary to the Active Travel Zones - increasing the number of vehicles using Kent Road.*

Response

- The Council is exploring the implementation of a permanent Active Travel Zone in the area with a 12-month trial. The main change that is relevant to the application prevents vehicles from passing under the railway bridge and using Kent Road/Priory Road as a short cut. The purpose of the Active Travel Zone is to stop the route from being used as a vehicular 'rat run' avoiding the St Denys Road/Thomas Lewis Way traffic light junction. The active travel zone, whilst resulting in commercial vehicles needing to use Kent Road, will also prevent rat running within this residential area. The proposals are not anticipated to have resulted in a significant increase of traffic on Kent Road.

6.5 *The site, its access and the location was not designed for large/heavy commercial vehicles/not the correct place for a Business Park.*

Response

- As explained in the Planning History section above this estate, like many others across the City, has evolved and expanded over decades and will have different demands placed upon it to when it was first developed. The application is to be determined on the unique set of characteristics and merits that prevail today.
- Despite using larger vehicles the business has agreed to a condition

preventing the use of vehicles with two or more axels from servicing the site and this is a material consideration in the officer's considered recommendation to the Panel.

- The majority of the business operations associated with pallet movement to and from the site is associated with 3.5 tonne vehicles.
- As above, large vehicles including HGVs are permitted to use any classification of road for access and deliveries and Kent Road is no exception to this.

6.6 ***The road is frequently gridlocked.***

Response

- The commercial vehicles operated by DSG Car Sales are anticipated as being a small proportion of overall number of vehicles using Kent Road and a condition can be added to ensure that servicing movements avoid peak traffic times of the day.

6.7 ***Impact of traffic and workshop generated noise and air pollution.***

Response

- Separate legislation is used to manage air pollution from vehicle exhausts.
- Owing to the location of the workshop, the ancillary nature to the car sales use of the site and juxtaposition with the closest residential properties harm is not anticipated.
- No objection has been received from the Council's Environmental Health Officers.

6.8 ***It was originally understood that car transporters would not travel on Kent Rod to access the site however this has not materialised. On one occasion a car transported parked on St. Denys Road causing a series tailback.***

Response

- Officers do not support the use of the larger car transporters to service this site and have negotiated alternative arrangements with the applicants.
- There are no weight restrictions or limits on local roads preventing access by large/heavy commercial vehicles.
- Parking on St Denys Road is not allowed – the section of road around the junction with Kent Road is restricted by a 'no waiting at any time' traffic regulation order.

6.9 ***Unsuitable development in Flood Zone 3***

Response

No objection raised by the Council's Flood Risk Management Team subject to recommended conditions.

6.10 **Consultation Responses**

Consultee	Comments
SCC CIL Officer	The proposal is not CIL liable.
SCC Highways	<p>In principle, highways can support the scheme based on the minimal change in trips generated by the existing and proposed land uses. In terms of HGV movements, the industrial use will generate slightly more HGV movements and although it is not known what size of HGV's use the site, it is reasonable to associate large car transporters with a car sales use. Therefore, in the first instance, tracking would need to be provided to ensure a car transporter can access the site – even if the applicant suggests this will only happen once to supply the initial stock for the site. Thereafter, the main consideration would be whether a suitably worded condition can be secured to robustly ensure that no more HGV's can visit the site (as proposed by the applicant). If this is considered achievable, then highway can support the scheme but would only be subject to this condition as well as tracking diagram being secured.</p> <p><u>Officer Response:</u> <i>Tracking for the proposed small HGV car transporter has been provided and conditions can be added to limit vehicle size and frequency of trip. This approach has been verbally supported by the Highways Team.</i></p>
SCC Environmental Health	<p>Environmental Health has no objection to the site being used for car sales. The effect of noise breakout from the open shutter and/or from extraction needs to be considered.</p> <p><u>Officer Response:</u> <i>Given the distance from the workshop to the nearest residential properties (approximately 75m) and the position of the Business Park building in between the workshop and closest residential houses significant harm from noise is not anticipated to occur. It is also noted that no objection have been received from local residents on the abas of noise generated from within the site.</i></p>
Environment Agency	No objection to the proposal as submitted.

<p>SCC Contamination</p>	<p>This department considers the proposed land use as being sensitive to the effects of land contamination.</p> <p>Records maintained by SCC - Regulatory Services indicate that the subject site is located on/adjacent to the following existing and historical land uses;</p> <ul style="list-style-type: none"> - Sewage Works (on site) - Tanks (Adj. to W) <p>To facilitate this apply recommended conditions.</p> <p><u>Officer Response:</u> <i>The application is retrospective and no material was imported into the site to facilitate this commercial use with hard surfacing. Therefore the proposed condition is not considered reasonable or necessary.</i></p>
<p>Sustainability (Flood Risk)</p>	<p>If the case officer is mindful to approve this application (21/00101/FUL) it is recommended the following pre-occupation conditions are applied:</p> <ul style="list-style-type: none"> • The Flood Risk Assessment is to be resubmitted to show how the development will be safe over its lifetime, including confirmation of the business signing up to receive flood warnings. • Finished floor levels of the office and workshop are to be set no lower than 4.1mAOD. If this level cannot be achieved the applicant is to provide details on appropriate flood mitigation measures to the Local Authority for approval, these may include raising electrical sockets and wires, flood doors, air brick covers, use of water resistance materials, etc. The Local Authority requires photographic evidence of the measures once implemented. • Submission of a site flood plan to the Local Authority to ensure occupants of the site are aware of the flood risk and what to do in the event of a flood. <p>The applicant needs to be aware that flood resistance measures such as flood doors and windows are not suitable for water depths greater than 600mm as they may cause structural damage.</p>

7 Planning Consideration Key Issues

- 7.1 The key issues for consideration in the determination of this planning application are:
- i. Principle of development.
 - ii. Character and appearance; and neighbouring amenity.
 - iii. Parking, highways and transport.
 - iv. Economic growth.

Principle of Development

- 7.2 The site is not safeguarded for any use within the Development Plan. The adopted proposals map does however define the site as 'open riverside character' (Local Plan Policy NE5 ii relates). NE5ii states that development is not permitted if it would cause damage to the open character of the riverside and landscape. The proposal is not deemed to be at odds with policy NE5 ii in principle, particularly given the wider context of the Estate. The scale of the proposal, and whether or not it can be seen from the public realm surrounding the River Itchen, will determine if the scheme is contrary to that policy. Officers consider the proposals (storage of cars for sale and erection of a single storey building) to be limited in scale and is not harmful to the visual quality of the public realm surrounding the River Itchen (as discussed in more detail below). Visually there is little difference between car storage and car sales.

Character and appearance; and neighbouring amenity

- 7.3 The land is within the Itchen Business Park which is accessible to the public; the site cannot however be seen clearly from outside of the Business Park.
- 7.4 The nearest residential dwellings are over 30m to the south at Saltmead. There are mature trees situated along the southern boundary of the business park. These act as a visual screen. The scale of the parked vehicles and single storey building also does not harm visual amenity achieved from nearby residential properties and no objections have been received on this basis.
- 7.5 By the nature of the storage use, the noise generated on site comes in the form of vehicle movements including delivery vehicles. Owing to these noise sources and the distance from residential properties it is deemed that there is little noise generated that would adversely impact residential amenity. No objections have been received on the basis of noise generated from within the site whilst vehicles are being loaded and unloaded, when vehicles are being moved around on site or when vehicles are being maintained within the workshop.

- 7.6 The majority of trips made in association with the business are by car when customers arrive and depart from the site.
- 7.7 The business model used by DSG Car Sales includes purchase of cars at auction and to date has been serviced by bulk delivery of cars by large HGV with three or more axels. The applicants originally informed the Council, as part of enforcement investigations, that larger car transporter deliveries would only be required as part of the setting up of this car sales premises with smaller delivery vehicles and alternative delivery arrangements to be used going forward, however this has not transpired and it is understood that larger car transporters are still servicing this site. The applicants have now indicated that they are prepared to accept the following delivery restrictions through a legally binding planning condition:
- Car transporters: No more than 11.2m long or more than 2 axels.
 - No more than one delivery of vehicles by car transporter in any one week.
- 7.8 The size of vehicle used to deliver cars to the site has been determined by the available land within the Business Park that can be used to facilitate turning, loading and unloading. An additional plan has been provided indicating that this manoeuvre and operation can take place to the south west of the site without harming access to any of the other sites and therefore the application has indicated that similar harm to that which was identified when considering the Bryonswell application (19/01469/FUL) will not occur. However at the time of writing this report, the applicants have yet to confirm that their suppliers or deliverers have 11.2m length/2 axel car transporters within their fleets – including following an auction - and an update will be provided at panel meeting.
- 7.9 Hours of delivery can also be limited to avoid peak traffic hours and times of the day when Kent Road is most likely to be heavily parked to avoid creating conflict when two vehicles seek to pass one another. This will also improve transport efficiency and prevent drivers from being stuck in traffic. The site is open 08:00 – 17:00 Monday to Saturday and 09:00 – 16:00 on Sundays and Bank Holidays. Restricting the delivery hours to 10:00 and 15:00 Monday – Saturday would limit the impact of traffic generated by DSG Car Sales on the residents of Kent Road further; many of which use their vehicles between 10:00 and 15:00 leaving the road less heavily parked. As such the operation of the DSG Car Sales potentially has less impact than vehicles using the road at any time of the day or night.
- 7.10 On the basis of this information and subject to confirmation that suppliers/delivery companies can meet these restrictions on vehicle size and frequency, the operation would seem reasonable in terms of impact on residents on Kent Road as well as other operators within the Business Park. This is also assuming that drivers behave responsibly and do not exceed traffic speed limits. The Local Planning Authority must also plan for reasonable and lawful behaviour including driver conduct. Furthermore consideration is given to the other vehicles that currently use Kent Road to access the Business Park

and the waste water treatment works which include articulated vehicles with three or more axels.

- 7.11 In this instance, unlike the Palletmove application, it is considered practical to restrict the operation to a specific number (1) of car transporter vehicle trips per week as it would not be difficult to monitor and enforce given the informal monitoring that is carried out by residents on Kent Road who have provided photographic evidence of car transporters visiting the site.
- 7.12 The effect of the active travel zone is anticipated to have reduced overall traffic numbers in Kent Road by preventing vehicles, other than those associated with local housing, businesses and Southern Water based in the business park, from regularly needing to access Kent Road.

Parking highways and transport

- 7.13 There are no weight restrictions on Kent Road for vehicles and there is no method to prevent vehicles with three or more axels from using the road. Pavement and road obstruction is managed by highways act with prosecution as necessary. Objections have not been received from the Highways Team on the basis of congestion, highway safety, road damage or highway obstruction. It is also the Highways Authority who are responsible for maintaining the quality of the road surface.
- 7.14 There are other larger commercial vehicles that use Kent Road, most notably those used by Southern Water to remove sewage sludge after the processing of raw sewage as well as refuse collection vehicles. These will also cause vehicle owners living on Kent Road to park straddling the pavement. On this basis it is difficult, as a result of the application proposal, to attribute significant harm in highways terms and in particular highways safety and congestion.
- 7.15 Planning permission was approved for Palletmove on the basis of vehicles with no more than three axels, or articulated, or exceeding 26 tonnes from servicing the site. Hours of operation were also restricted to 08.00 - 16.00 Mon – Fri. A similar approach can be used for the current application associated with DSG Car Sales.
- 7.16 The modal filter (part of the active travel zone) restricts through traffic which has the impact of reducing traffic speed, noise and potential for highway conflict caused by two vehicles trying to pass. It is hope that this will significantly improve the residential environment on Kent Road.

Economic Growth

- 7.17 It must be recognised that the business provides local employment which helps to achieve economic growth. The business also makes good use of the available land. The negative impact of this development must be weighed against this in the planning balance. Owing to the position of the site and the

size of vehicles used to service the business being limited by condition the application is not judged to cause sufficient harm to other neighbouring businesses to justify refusal. Furthermore none of the other businesses in the business park have objected to the application.

8 Summary

- 8.1 The retrospective application for a change of use to car sales hinges on the suitability of Kent Road to service the demands of the use. Officers do not condone retrospective applications but the Council has a duty to consider them. Residents in Kent Road have provided representations that the use is not appropriate. Officers consider that certain controls can be used to limit the impacts and, due to the limited scale of the business, the impacts proposed are within tolerable limits. For instance, operational hours and number of car deliveries per week can be conditioned to help reduce impact on residential amenity at peak traffic times of the day. A condition restricting larger delivery vehicles is also considered to meet the necessary tests for imposing a planning condition.
- 8.2 In coming to this decision officers have balanced the limited identified harm caused by traffic associated with the business on Kent Road residents against the economic growth, employment and the efficient use of the site. This recommendation has also been made having regard to the size of vehicle considered necessary by the business operators and reasonable and enforceable planning conditions that can be used to limit impact. Consideration has also been made to the other business operations in the Business Park and Southern Water's operation of the waste water treatment works and their associated vehicle movements and the Panel will note that the Council's Highways Team have not objected to the application, the proposed access, or the use of Kent Road for larger servicing vehicles.

9 Conclusion

- 9.1 It is recommended that planning permission be granted subject to relevant planning conditions listed below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

(1. (a) (b) (c) (d) 2. (b) (c) (d) (f) 6. (a) (b)

MP for 20/04/2021 PROW Panel

PLANNING CONDITIONS to include:

1.Approved Plans [Performance Condition]

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

2.Hours of Use [Performance Condition]

The vehicle sales use hereby approved shall not operate outside the following hours:
08:00 – 17:00 Monday to Saturday and
09:00 – 16:00 on Sundays and Bank Holidays.

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents.

3.Hours of Delivery [Performance Condition]

The delivery of vehicles by vehicle transporter lorry shall not occur outside the following hours:

10:00 and 15:00 Monday – Friday.

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents.

4.Delivery operations location restriction [Performance Condition]

Unless otherwise agreed in writing the turning of vehicle transporter lorries and loading/unloading of vehicles from them shall not take place outside of the vehicle tracking/parking area shown on the approved plans and in particular (for avoidance of doubt) shall not obstruct access to any neighbouring business including Southern Water waste water treatment works) or require any part of the public highway

Reason: To avoid congestion and obstruction of the adjoining access

5. Restricted use of vehicles with more than two axels or exceeding 11.2m in length [performance condition]

The site shall receive not more than one car transporter delivery per week and the car transports servicing the use hereby approved shall have not more than two axels or shall not exceed 11.2m in length..

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents and in the interests of highway safety

6. Refuse & Recycling (Performance Condition)

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved (outside of the fenced and gated site boundary).

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby business properties and access into the Portswood waste water treatment works; and in the interests of highway safety.

7. Flood Resilience measures (within 2 months)

Within 2 months of the date of this permission the applicant shall provide details of flood resilience measures covering the listed points below. Once approved in writing by the Local Planning Authority the agreed measures shall be provided on site within

6 months of the date of this permission and shall thereafter be retained as approved.

- Details of appropriate flood resilience measures including all electrical equipment and wiring raised 300mm above the 1 in 200 year flood event level of 4.1mAOD, these may also include raising wires, addition of flood doors, air brick covers, use of water resistance materials.
- Confirmation of the business signing up to receive flood warnings from the Environment Agency.

Reason: To ensure the building remains safe should potential flooding occur.

Note to Applicant: Flood resistance measures such as flood doors and windows are not suitable for water depths greater than 600mm as they may cause structural damage.

8.Flood Resilience measures (within 2 months)

Within 2 months of the date of this permission the applicant shall provide details of a flood evacuation plan for staff. Once approved in writing by the Local Planning Authority all existing and subsequent staff will be made aware of the evacuation procedure. A copy of the agreed evacuation plans shall also be retained on site at all times.

Reason: To ensure that staff on site are aware of flood evacuation procedures.

9.Workshop – ancillary use (Performance Condition)

The use of the workshop shall only be used for maintenance purposes associated with vehicles for resale and therefore ancillary to the use of the site for the purposes of car sales only.

Reason: For the avoidance of doubt and owing to the permitted *sui generis* use of the site for car sales.

10. Restricted Use [Performance Condition]

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for the purposes indicated in the submitted details, namely vehicle sales with ancillary workshop and office and not for any other purpose.

Reason: In the interest of the amenities of neighbouring occupiers and to enable a further assessment should further employment uses seek to operate from this site.

11.Vehicle Storage (Performance Condition)

Unless otherwise agreed by the Local Planning Authority no cars associated with the business hereby approved shall be stored outside of the fenced and gated site boundary of the site as detailed but the approved plans

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby business properties and access into the Portswood waste water treatment works; and in the interests of highway safety.