

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/01434/S73	Removal of condition 2 of planning permission 23/01259/FP granted 25.03.2024 for Use of buildings as (Sui Generis) car sales and (Use Class B2 general industrial) car servicing (as amended by details submitted 18th September 2024 and 26th November 2024).	Friends Green Farm Friends Green Damask Green Road Weston Hitchin Hertfordshire SG4 7BU

Submitted Plan Nos

FGP1-4 P

1.0 Policies

T1 Assessment of transport matters

SECN9 Promoting sustainable transport

2.0 Site History

2.1 Extensive site history, relevant applications are as follows:

2.2 **23/01259/FP** - Use of buildings as (Sui Generis) car sales and (Use Class B2 general industrial) car servicing (as amended by details submitted 16th January 2024).

Conditional Permission

2.3 **20/01832/FP** - Change of building usage from livery yard to car showroom and single storey 3-bedroom dwelling.

Refused

2.4 **18/02911/S73** - Increase in height of garage/workshop/feed store building to provide tack room at first floor level (as variation of Condition 2 of application number 17/04137/S73 granted on appeal reference APP/X/1925/W/18/3198084 dated 28/09/2018).

Refused - Appeal Dismissed

2.5 **17/04137/S73** - Section 73 application: Erection of stable block for 12 stables; garage workshop and feed store/tack rooms following demolition of existing stables (Removal Condition 6 of Planning application 15/02582/1 granted 28/04/2016).

Refused - Appeal Allowed

2.6 **15/02582/1** - Erection of stable block for 12 stables; garage workshop and feed store/tack rooms following demolition of existing stables.

Granted

3.0 Representations

- 3.1 **Weston Parish Council** – *“WPC object on the grounds that nothing has changed since the conditions were imposed. The Applicant also refers to wanting to make changes to the buildings that were not part of the formal application or the formal notice hence these points were not discussed”.*
- 3.2 **Hertfordshire Highways** – Object to the development on several grounds and recommend refusal.
- 3.3 **Environmental Health** – No objection.
- 3.3 **Site Notice and Neighbour Consultation** – None received.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The application site lies on the east side of Damask Green Lane, Weston. The site is to the south of Friends Green Farmhouse, a grade II listed building, and two grade II listed barns forming part of the former farmyard complex. The site is designated as within the Green Belt in the Local Plan. The site contains two single storey buildings, comprising a taller single storey ‘barn’ type building which lies towards the east of the site, away from Damask Green Lane, and a shorter building with a ‘U’ footprint which lies to the west of the ‘barn’ type building. The site is currently served by two existing accesses from Damask Green Lane, one to the north of the site which serves the parking area and one to the south which leads to the access road into the barn buildings. The southern access is unlawful, in that the access was implemented on site without planning permission in consultation with the Highway Authority.

4.2 **Proposal**

- 4.2.1 The application proposes the removal of condition 2 of planning permission 23/01259/FP granted 25.03.2024 for Use of buildings as (Sui Generis) car sales and (Use Class B2 general industrial) car servicing (as amended by details submitted 18th September 2024 and 26th November 2024).
- 4.2.2 Under application ref: 23/01259/FP, planning permission was granted for the use of the existing buildings at the site for (Sui Generis) car sales and (Use Class B2 general industrial) car servicing. Within the lifetime of that application, the Council consulted with the Highway Authority on several occasions on a number of highway related matters. One of those matters related to the existing southern access to the site which had been implemented without planning permission, where concerns were raised in relation to highway safety due to substandard visibility splays. In response, the applicants submitted a revised transport statement on the 16th January 2024 which, through consultation with the Highway Authority, sought to close the existing un-lawful southern access through measures such as boundary fencing/landscaping and instead utilise the existing northern access, which formed part of the original planning applications for these buildings and has been operated at this site for many years. Following consultation with the Highway Authority on this matter, no objections were raised subject to conditions. The Council therefore sought to condition the closing of the un-lawful southern access, which was set out under Condition 2 as follows:

“Within 3 months of the date that planning permission is granted, a plan showing how the existing southern access will be closed and landscaped will be submitted to the Local Planning Authority for approval. The southern access shall be closed and landscaped in accordance with the agreed details within 3 months of written approval.

Reason: the southern access is considered unsafe by the Highway Authority and therefore require its closing, in accordance with T1 of the North Hertfordshire Local Plan 2011-2031”.

- 4.2.3 The application has been submitted to remove this Condition 2 and as a result, retain the existing un-lawful southern access onto Damask Green Lane. The application has been supported by a covering letter and several new transport notes that have sought to evidence that the southern access is safe and would not cause harm to highway safety.

4.3.1 **Key Issues**

- 4.3.1 The principle of this development in the Green Belt, the impact on designated heritage assets, the design and layout, and the impact on living conditions are already established by application ref: 23/01259/FP. Therefore, the consideration of this application is how acceptable the proposed removal of Condition 2 is relative to that which was approved, which is centred around highway and access impacts.

Highway and Access

- 4.3.2 The application was submitted with a Transport Technical Note by EAS in July 2024. This document included detail as to the feasibility and safety related matters pursuant to the existing southern un-lawful access, including visibility splays, trip generation, the lawful use of the site, and speed surveys on Damask Green Lane which informed the proposed visibility splays as submitted that are considered acceptable. This document concluded that the access was safe and acceptable relative to local and National Planning Policy.
- 4.3.3 The Highway Authority were consulted on this application and provided formal comments in July 2024, stating that they objected to the removal of Condition 2 for several reasons, including that the HA would not support the second vehicle access serving a single development as this would create more potential conflict points between vehicles and the justification for this second access is nonsensical, given the arguments put forward in the previous submission that vehicle trips would be considerably low. Other concerns were that this would set a precedent for other development to apply for two access points, speed concerns on the 60mph Damask Green Lane relative to the submitted speed survey, the lack of detailed technical plans for the retention of the southern access showing gradients, visibility splays, surface water drainage, the lack of a Stage 1 Road Safety Audit and the general need for access to developments to adhere to current higher standards of accessibility by all modes of travel as outlined in both local and national policies, guidance's, and regulations.
- 4.3.4 Following receipt of this formal comment from the HA, the applicants submitted a second Highways Technical Note in September 2024 which sought to address the matters and concerns raised in the HA's formal response. The HA were consulted on this subsequent submission and provided a second formal comment in October 2024. Concerns remain with the applicants submission insofar as it relates to the use of the 85th percentile for

speed surveys given the sites characteristics, the subsequent impact this would have on the required visibility splays for the southern access which was stated to be incorrect as the splays are shown over third party land which cannot be maintained, the remaining lack of a Stage 1 Road Safety Audit, the lack of Highway Authority approval for the southern access which is onto a Classified C road and the premise through which the previous application was approved which was centred around removing the southern access and only utilising the existing lawful northern access.

- 4.3.5 Following receipt of this second formal comment from the HA, the applicants submitted a third and final Highways Technical Note in November 2024, which again sought to evidence and overcome the matters and concerns raised by the HA. The note sets out that in their view, the HA are deviating from normal practise for speed surveys and associated visibility splays given the sites rural location. The HA were consulted on this third formal submission and provided comment in December 2024. The formal comment set out that the HA continue to raise concerns in respect of the unjustified need for a second access serving the same development/use and the continued concern for the adequacy of the visibility splays given that the splay crosses over third party land outside of the applicants control, such that maintenance would be an issue. Overall, the HA provided a formal recommendation for refusal set out as follows:

“The proposed second southern vehicle access would be unacceptable in highway safety terms for reasons detailed above, with particular regard to the adequacy of the proposed visibility splays and no substantive justification for a second vehicle access, all of which conflicts with the information provided for the extent permission regarding vehicle movements inside and outside of the site.

The application has failed to demonstrate a satisfactory policy and design-led approach for the above reasons, thereby the proposals would exacerbate existing highway conditions, which are prejudicial to the highway safety of all road users”.

- 4.3.6 As such, it is considered that the concerns raised by the Highway Authority are reasonable and justified in planning terms. The southern access is considered to be unsafe, given the inadequacy of the visibility splays and the lack of substantive justification for a second vehicle access into the site, which would conflict with the information submitted under the previous planning application where through condition 2, the southern access was to be removed and landscaped. This would be contrary to Policy T1 of the Local Plan which requires development to not lead to highway safety problems or unacceptable impacts on the highway network, and Section 9 of the NPPF 2024, especially paragraph 116.
- 4.3.7 The southern access that has been implemented at the site is less than 4 years old and as such, would not benefit from being lawful through the passage of time. Therefore, it is considered justifiable to recommend that the removal of Condition 2 be refused due to the formal concerns of the Highway Authority who are the experts on such matters.

4.4 **Conclusion**

- 4.4.1 As above.

4.5 **Alternative Options**

4.5.1 None.

4.6 **Pre-Commencement Conditions**

4.6.1 N/A.

5.0 **Recommendation**

5.1 That planning permission be **REFUSED** for the following reason:

1. The existing un-lawful southern access into the site is unacceptable in highway safety terms, having particular regard to the inadequacy of the proposed visibility splays and no substantive justification for a second vehicle access, all of which conflicts with the information provided for the extant permission regarding vehicle movements inside and outside of the site. The application has failed to demonstrate a satisfactory policy and design-led approach for the above reasons, thereby the proposals would exacerbate existing highway conditions, which are prejudicial to the highway safety of all road users. The proposal would be contrary to Policy T1 of the Local Plan and Section 9 of the National Planning Policy Framework 2024, especially paragraph 116.

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Anne McDonald Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
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Date: 20 December 2024	
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