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Case Number	17/04825/FUL
Application Type	Full Planning Application
Proposal	Use of land as a car sales/storage site
Location	Site Of Zion Congregational Church Lawrence Street Sheffield S9 3RG
Date Received	24/11/2017
Team	City Centre and East
Applicant/Agent	Mr Zaffar Hussain
Recommendation	Grant Conditionally

#### Time limit for Commencement of Development

1. The development shall be begun not later than the expiration of three years from the date of this decision.

Reason: In order to comply with the requirements of the Town and Country Planning Act.

#### Approved/Refused Plan(s)

2. The development must be carried out in complete accordance with the following approved documents:

Site Layout and Drainage Plan dated 15.04.2018  
Location Plan received 26.02.2018

Reason: In order to define the permission.

#### Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)

#### Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)

3. The site shall not be used unless the hard surfaced areas of the site are constructed of permeable/porous surfacing as shown on the approved drainage plan. Thereafter the approved permeable/porous surfacing material shall be retained.

Reason: In order to control surface water run off from the site and mitigate against the risk of flooding

4. The site shall be used solely for the sale and storage of cars and shall not at any time be used for car repairs , breaking of vehicles or car washing.

Reason: In order to prevent pollution of the water environment and in the interests of the amenities of the locality.

5. The site shall not be used for the use hereby permitted unless the access gate onto Zion Lane has been removed and fencing reinstated as shown on the approved plan

Reason: In the interests of highway safety.

6. No excavations or removal of ground material shall be carried out on the site at any time

Reason: To ensure that any onsite historical remains are undisturbed.

7. No more than 48 cars shall be stored on the site at any time.

Reason: In order to prevent pollution of the water environment, in the interests of the amenities of the locality and highway safety.

8. Any solar lighting installed on the site shall be positioned in a manner to avoid light pollution to the adjoining churchyard.

Reason: In the interests of nature conservation.

9. The landscape works as agreed with the Friends of Zion Churchyard and detailed in email dated 15.04.17 shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.

Reason: In the interests of the visual amenities of the locality.

10. The development shall not be brought into use unless the loose back filled material adjacent to the boundary with the churchyard has been removed and replaced with a gabion wall as detailed on the approved plan.

Reason: In the interests of the amenities of the locality and to ensure the stability of the land.

#### Other Compliance Conditions

#### Attention is Drawn to the Following Directives:

1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.

2. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

3. The applicant should install any external lighting to the site to meet the guidance provided by the Institution of Lighting Professionals in their document GN01: 2011 "Guidance Notes for the Reduction of Obtrusive Light". This is to prevent lighting causing disamenity to neighbours. The Guidance Notes are available for free download from the 'resource' pages of the Institute of Lighting Professionals' website.
4. The applicant is advised that Sheffield City Council, as Highway Authority, require that drives/vehicular access points be designed to prevent loose gravel or chippings from being carried onto the footway or carriageway, and that they drain away from the footway or carriageway, to prevent damage or injury.



The application seeks approval to utilise the former church site for the storage of cars waiting to be exported and for limited car sales to the trade. The site was cleared prior to the submission of the application and now forms a largely level plateau secured by palisade fencing along its Zion Lane and Laurence Street frontages.

## RELEVANT PLANNING HISTORY

97/00974/FUL Retention of palisade fencing Granted 18.07.1997

## SUMMARY OF REPRESENTATIONS

6 letters of objection have been received which raise concerns that:

- The adjoining graveyard which is of national and international importance must be protected from the adverse effects of the development.
- Gates have been formed in the fence on the Zion Lane frontage of the site. There are concerns that the use of the gates will cause damage to the cobbled surface of Zion Lane and damage to neighbouring buildings due to its inadequate width. The cobbles should be protected by the Council.
- There is no water course on the site and the application says there is no intention to connect to the existing drainage system. If an impermeable surface is laid the graveyard will flood and be damaged.
- There is risk of contamination of the adjoining land from car fuel, pollutants, car fires and herbicides which has not been addressed
- There are important habitats and other biodiversity features on the adjoining land, the impact on which has not been considered or addressed. No ecological survey was carried out prior to the site being cleared to establish if the site contains any protected species or is an important foraging ground for them. The site which was covered with trees and shrubs has been cleared to the detriment of local wildlife and adjoining cemetery leaving just one tree on the site. This should be retained and protected.
- A green buffer should be provided along the boundary with the cemetery
- It is unclear if there will be a site cabin, as it states that none will be erected but the application includes details of a pre-fabricated cabin on the site
- The site is full of historical interest and a full survey should be carried out. The church site may contain human remains left over from graves in the old churchyard (which was built over). There should be no excavation without due process.
- A land registry search has confirmed that the applicant doesn't own the entire site which is subject to the planning application and he has not served notice on the owner.

- No sections have been submitted through the site.
- The proposal is contrary to the Attercliffe Action Plan which plans to redevelop the area into a public space. This application is detrimental to these proposals
- The Friends of Zion Graveyard (FoZGA) are doing excellent work to safeguard the secluded graveyard and to preserve and raise awareness of the important history that it contains. If the application is approved this would prejudice that work
- Although the applicant has taken pre-application advice he has disregarded it in almost every respect. The Council should give due consideration to taking enforcement action. To do otherwise would set a dangerous precedent whereby applicants can seek advice to establish the significant issues, undertake works to remove those obstacles and then retrospectively submitting an application fait accompli.
- The Chair of the FoZGA has acknowledged the concession that the applicant has made in fencing off a pathway across his land to give access to the graveyard and confirm that their solicitors are hoping to formalise this arrangement to ensure ongoing access to the site.
- They are concerned that there should be no negative impact from accidental leakage or rain runoff from the car lot which is at a higher level so it is important that permeable surfacing is used and that the vehicles are in good condition.
- The FoZGA confirm that the new fence along the boundary with the graveyard has been positioned to skirt around four graves on the applicants land so that they remain an integral part of the graveyard. They consider that there may be other significant graves which lie close to the fencing beneath the banking.
- The group confirm they have had discussions with the applicant to agree suitable landscaping along the boundary with the churchyard

12 letters in support of the application have been received. The letters indicate that the current owners have done a good job clearing the site which has been used as a dump and been neglected for many years.

The letters question why any of those opposing the scheme haven't raised concerns regarding the neglect of the site and adjoining churchyard prior to the application being submitted or invested their own money to seek improvements. In addition it is acknowledged that the applicant has installed a footpath making the graves in the adjoining churchyard accessible.

## PLANNING ASSESSMENT

### Background

For many years the application site, along with the adjoining graveyard has been overgrown and subject to fly tipping. Since the applicant has purchased the site he has cleared all the undergrowth, trees and bushes and has erected a security fence along the boundary with the churchyard. As part of the works a path has been provided adjacent to the southern boundary of the site giving pedestrian access to the churchyard from Laurence Street. The site forms a largely level plateau which falls outside the site boundary towards the churchyard. The applicant has infilled part of the site adjacent to the churchyard boundary with rubble to maximise the usable area. The site has vehicular access from Laurence Street through large gates within the existing boundary security fence.

The application seeks approval for the use of the land for the storage and trade sale of motor vehicles. The site will be split into two distinct zones separating vehicles for sale and for those being stored awaiting export. As the sale of vehicles will be by appointment the site will be unmanned the majority of the time removing the need for any onsite office accommodation or connection to services.

The application site has been reduced in size since first submission as the area to the north of the site was found not to be within the applicant's ownership and it was confirmed that no notice has been served on the owner of this land as required by the planning legislation. The revised application site is wholly owned by the applicant. Any trespass by the applicant on the adjoining land is a private matter between the two parties concerned and not a planning consideration.

Prior to the application being submitted two additional vehicular access gates were installed on the Zion Lane frontage of the site, including the land which no longer forms part of the application. The applicant has been advised that for highway safety reasons these additional gates are unacceptable in this location. A condition will be added to any subsequent approval requiring the new gate which gives access to the applicant's land to be removed and reinstated as fencing. The council is unable, as part of this application, to take action to secure the removal of the gate which gives access to the neighbouring land which is outside the application site.

Although planning approval has not been granted the applicant has already parked a number of vehicles within the site. Although this is unauthorised, officers considered it would not be expedient to take any action to remove these vehicles prior to the current application being determined.

#### Land use issues

The site is within a Fringe Industry and Business Area as defined by the Unitary Development Plan where policy IB6 indicates B1, B2 and B8 uses as the preferred land uses. This policy approach was continued in the Core Strategy in Policy CS5a that promotes manufacturing, distribution and warehousing in the area.

Policy IB6 is clear that development which is not listed will be decided on its individual merits. Car sales/storage uses are not listed within the policy but are considered to be largely compatible with the surrounding industrial and commercial uses, including that of a van rental company on Ferguson Street to the west which

includes vehicle storage. From this point of view the proposal is considered acceptable in principle subject to other policy requirements.

Policy IB9 'Conditions on development in industry and business areas' permits new development provided that it would not lead to a concentration of uses which would undermine the dominance of industry and business uses in the area. The proposal is not for a preferred use but as these are dominant in the area the proposal raises no concern in this respect

#### Historical Interest and impact on Churchyard

Policy BE15 'Areas and Buildings of Special Architectural or Historic Interest states that areas of historic interest will be preserved or enhanced.

The site has remained undisturbed since the former church buildings were demolished and the site levelled in the 1980's. It is not known what remains are below the site, although the FoZGA believe that there may be further historic graves. The site and adjoining graveyard have no legal protection and it is understood that prior to the applicant purchasing the site there was no independent access to the churchyard. Access to the Churchyard is to be formalised by a legal agreement between the applicant and the FoZGA. The FoZGA have recently applied to Historic England for the grave of Mary Ann Rawson to be listed.

The application has been referred to the South Yorkshire Archaeology Unit for comment. As the application does not propose any onsite excavation, any remains which do exist buried on the site will not be disturbed and in this respect the proposal raises no concern. Conditions will be added to any subsequent approval preventing any onsite excavation in the future to ensure that any remains are preserved.

The graveyard is set down approx. 1m from the application site and secured by a 2m high palisade security fence. The actual line of the fence has been positioned to skirt around the edge of four flat gravestones which were on the edge of the applicant's land. The area of rubble used to infill land which lies adjacent to the boundary with the churchyard is to be removed and replaced with an engineered gabion wall to prevent slippage in the future. The submitted plans indicate that the palisade fencing which faces the churchyard will be painted green to reduce its visual impact.

The applicant has been in discussion with the FoZGA to agree a planting scheme which will reinforce the boundary with the churchyard. It is understood that the FoZGA will carry out the planting which will be funded at the applicant's expense. Conditions will be added to any subsequent to secure the agreed planting.

Although no services are to be connected to the site the applicant has indicated he may install solar lighting on the site. Conditions will be added to ensure any such lighting is positioned to prevent light disturbance to wildlife within the churchyard.

#### Amenity Issues

Policy IB9 requires development not to cause any unacceptable living conditions for local residents and not to harm the quality of the environment to such an extent that other new industry and business would be discouraged.

The proposal is for a small scale operation and the limited movement of vehicles onto and within the site will not give rise to any noise issues which would impact on adjoining industrial and commercial uses and there are no residential uses in the locality which would be affected. The applicant has confirmed that no vehicle repairs or car cleaning will take place on the site as he has other premises where these activities are carried out. This can be controlled by condition.

In light of the above the proposal is considered acceptable from an amenity perspective.

#### Drainage and Site Contamination

Core Strategy policy CS 67 'Flood Risk Management' requires development on small sites to reduce surface water runoff as far as possible by design measures such as permeable paving.

The site has been free draining for a number of years and there will be no increase in rainwater runoff as a result of this application. There are concerns that the use may compact the ground resulting in water pooling on the surface. In view of the sensitive nature of the site the applicant intends to raise the existing site level using a coarse aggregate to provide an infiltration blanket across the site. As this will be built up above the existing site levels there will be no disturbance to the existing ground, allow rainwater to adequately drain off the site and will provide a suitable running surface for vehicles.

The Environment Agency advises that sites which are used for the parking of cars that are larger than 800m<sup>2</sup> in area or for 50 or more parking spaces should have measures in place to prevent pollution. The application site is less than 600m<sup>2</sup> and will not be used for the storage of more than 50 vehicles. Furthermore the applicant has confirmed that all vehicles will be road worthy and that no vehicle repairs will take place on the site. The proposed porous surfacing is considered to offer a suitable means of treatment from this low risk use. A condition will be added to any subsequent approval limiting numbers of vehicle to be stored on the site to less than 50 at any time to ensure it remains within EA limits.

The Council's land drainage section has advised that the proposals for managing surface water are satisfactory.

#### Highway issues

Policy IB9 requires development to provide safe access to the highway.

The applicant has confirmed that all vehicles will be driven onto the site. There will be no deliveries by car transporters which would block Laurence Street and impact on highway safety. The low level of traffic generation from the development is

unlikely to have any significant impact on the highway network and the existing vehicular access to the site from Laurence Street is considered to be satisfactory.

The access gate which has previously been installed onto Zion Lane will be reinstated as fencing. The access is considered to be unsuitable for vehicular access due to the limited width of Zion Lane.

The proposed site layout with vehicles positioned around the periphery of the site allows for the ease of movement of vehicles on and off the site without detriment to highway safety.

The submitted plans confirm that a hard standing will be provided at the entrance to the site to prevent any aggregate from being dragged onto the highway.

### Coal Mining

The application site falls within a Coal Mining High Risk Area. The Coal Authority has however confirmed that as the application is for a change of use, with no building operations, there is no objection to the proposal.

### Attercliffe Action Plan

The Attercliffe Action Plan 2011 to 2021 outlines a framework to promote the economic regeneration of Attercliffe. The plan identified the application site as vacant land which had become overgrown and unsightly and recommends that land to the rear of Attercliffe Road be infilled with development to complement a revitalised 'High Street'. The application site has the potential to be opened up improving the setting of the churchyard.

Whilst the application does not fulfil the objectives of the Action Plan it secures a visual improvement to the area which has been recognised by a number of the representations which have been received. The proposal will not damage the site and with its sensitive nature is unlikely to be redeveloped for any alternative use. In dealing with the application officers have considered if any approval on the site should be on a temporary basis to aid the long term regeneration of the area. This though is private land and the granting of a restrictive permission would not be justified in the current economic climate where alternative funding for such works is unlikely to become available.

### SUMMARY AND RECOMMENDATION

The site has remained undeveloped since the 1980s prior to which it was the site of Zion Chapel with adjoining churchyard. Since this time the site has become overgrown and unsightly. The applicant has cleared the site and allowed access across his land to the adjoining churchyard which is undergoing restoration by the FoZGA.

The use of the land for the storage and sale of cars is considered to be compatible with neighbouring uses and will not prejudice the continuation of industrial and business uses in the area. No on site excavations are proposed which may disturb

historic remains on the site. Landscaping will be provided along the boundary with the churchyard in full agreement with the FoZGA.

The development is considered to be in compliance with local planning policy and is recommended for approval subject to the listed conditions.

