

Location: Friends Green Farm  
Friends Green  
Damask Green Road  
Weston  
Hitchin  
Hertfordshire  
SG4 7BU

Applicant: Friends Green Porsche

Proposal: Use of buildings as (Sui Generis) car sales and (Use Class B2 general industrial) car servicing (as amended by details submitted 16th January 2024).

Ref. No: 23/01259/FP

Officer: Alex Howard

**Date of expiry of statutory period:** 23<sup>rd</sup> November 2023

**Extension of statutory period:** 1<sup>st</sup> April 2024

**Reason for Delay:** In order to present the application to an available committee meeting.

**Reason for Referral to Committee:** The application has been called-in by Cllr Steve Jarvis following an objection from the Parish Council.

## 1.0 **Site History**

- 1.1 **20/01832/FP** - Change of building usage from livery yard to car showroom and single storey 3-bedroom dwelling.

### **Refused**

- 1.2 **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**

- 1.3 **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**

- 1.4 **15/02582/1** - Erection of stable block for 12 stables; garage workshop and feed store/tack rooms following demolition of existing stables.

### **Granted**

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Local Plan (The Local Plan) 2011 – 2031**

Policy SP1: Sustainable Development in North Hertfordshire  
Policy SP5: Countryside and Green Belt  
Policy SP9: Design and Sustainability  
Policy SP10: Healthy Communities  
Policy SP11: Natural Resources and Sustainability  
Policy SP12: Green Infrastructure, Landscape and Biodiversity  
Policy SP13: Historic Environment  
Policy T1: Assessment of Transport Matters  
Policy T2: Parking  
Policy D1: Sustainable Design  
Policy D3: Protecting Living Conditions  
Policy NE7: Reducing Flood Risk  
Policy HE1: Designated Heritage Assets

### 2.2 **National Planning Policy Framework (NPPF) (December 2023)**

Section 2: Achieving sustainable development  
Section 4: Decision making  
Section 9: Promoting sustainable transport  
Section 11: Making effective use of land  
Section 12: Achieving well-designed places and beautiful places  
Section 13: Protecting Green Belt land  
Section 16: Conserving and enhancing the historic environment

## 3.0 **Representations**

3.1 **Site Notice and Neighbour Consultation** – None received.

3.2 **Hertfordshire Highways** – Initially objected to the application for various reasons. However, following amendments to the scheme and the submission of further information, the Highway Authority have raised no objection subject to conditions.

3.3 **Weston Parish Council** – *“Weston Parish Council strongly objects to the change of use application on the grounds that the development of an automotive business is inappropriate in the Green Belt.*

*This is the same basis on which we objected to a similar proposal in September 2020 (20/01832/FP) when the application was rejected, and we do not believe that there are any changes in circumstances since then that would cause us to modify our decision.*

*Moreover, as the applicants point out in paragraph 1.3.2, the development of an automotive business has enabled the buildings to be constructed to a higher standard than would have been the case for the approved livery business. It is therefore clear that it was never the intention of the owners to use the site for the approved purpose and, even after losing their change of use application in 2020, they continued to run the business unlawfully. Their suggestion that Very Special Circumstances exist is therefore based on the longevity of a knowingly illegitimate business. Under such circumstances, the granting of planning permission would make a mockery of the planning legislation and set a very dangerous precedent.*

*Their suggestion that the 'fallback' position would result in a less desirable outcome is also without merit, as the fallback outcome in this instance would either be for the site to be used for the approved purpose or not used at all".*

- 3.4 **Environmental Health (Air Quality)** – *"From the plans and documentation provided, there is no clear indication of parking provision, and thus difficult to interpret whether there should be any recommendations for EV charging.*

*In absence of any further details there are no adverse EH comments, unless you have knowledge to the contrary on parking spaces."*

- 3.5 **Environmental Health (Land Contamination)** – *"I have no objection to this application, with respect to contamination on land. The application comprises a proposal for conversion of a stables to a car sales and maintenance garage. We are not aware of any potentially contaminative land use, past or present, at the site. Given this, it is considered unlikely that significant contamination that could potentially be mobilised by construction of the proposed development is present. Therefore, no investigation is required relating to potential contamination on land, and we have no requirements for the imposition of planning conditions, in the event that permission may be granted".*

- 3.6 **Environmental Health (Noise/Nuisances)** – *"This is a retrospective application. No complaints have been received by Environmental Health*

*There are no nearby residents.*

*I therefore have no objections to the above planning application."*

- 3.7 **Conservation Officer** – Objects to the proposed development, concluding as follows:

*"The acceptability of the use of the site is a decision for the case officer to make, however, in my considered opinion, the use is not one that I would readily associate with a rural location adjacent to a former farmstead where there are 3 separately grade II listed buildings and that by reason of the amount of cars parked on site and the activity associated with the proposed (but currently unauthorised) use, that this has an erosive impact upon the character of the area but I must stress that there are no heritage-based policies on which to mount a case for **OBJECTION**".*

#### 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.

- 4.1.2 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 Road, and a shorter building with a 'U' footprint which lies to the west of the 'barn' type building. The buildings host shallow lean-to roofs and were built as a result of planning applications 15/02582/1 and 17/04137/S73. A hard-surfaced parking area is located to the north of the buildings. The site has two accesses onto the highway at the point of determination, one to the north of the site and one to the south. The southern access has not been built in accordance with relevant highway guidance or through a formal planning application.

##### 4.2 **Proposal**

4.2.1 The application seeks planning permission for the 'retrospective change of use of stables to car sales and servicing', as lifted from the application form. The Council's description of development for this application was validated as 'Retention of change of use of (equestrian) livery stables to (Sui Generis) car sales and (Use Class B2 general industrial) car servicing'. However, following due consideration of these descriptions, the Council cannot accept them as the usage of the buildings as an equestrian livery yard has never been satisfactorily evidenced. Therefore, the description of the proposed development has been altered to "Use of the buildings as (Sui Generis) car sales and (Use Class B2 general industrial) car servicing". This has been agreed by the applicant.

#### 4.3 Key Issues

##### Preliminary Matters

4.3.1 Two buildings were approved on this site under applications referenced 15/02582/1 and subsequently 17/04137/S73. Looking at the Officer report for the latter application, the buildings were described as follows in terms of scale and appearance:

*"Erection of one building to provide 12 stables. The proposed building will be U shaped and is proposed to have an eaves height of 2.7m, and a ridge height of 3.8m. Its elevation along Damask Green Road is proposed to measure 23.5m in length whilst the building will extend by a depth of 15.6m.*

*Erection of one building to provide agricultural storage and storage relating to the stables. The building is proposed to measure 9.4m in width, 23.9m in length, 3m to eaves height and 4.6m to ridge height.*

*Both new buildings are proposed to have shiplap cladding for the external walls with slate tiles proposed for the roof".*

4.3.2 Following a site visit, there are two buildings that exist at the site, and it is not known whether they have been built in full or partial compliance with the approved drawings. However, it is the Council's understanding that the two buildings were built taller than they were permitted under the two previous applications. The elevation drawings submitted with this application indicate that the U-shaped building has an eaves height of 2.3m and a ridge height of 4.2m, and the storage building has an eaves height of 3.3m and a ridge height of 5.1m. The floor plans do not identify any discrepancies with respect to the footprint, width, and depth of the two buildings. Moreover, regarding the other conditions, it is noted that details reserved by condition 3 (materials) and 4 (landscaping) have been submitted and approved in respect to permission referenced 15/02582/1. These details are transferable to permission referenced 17/04137/S73 and it would appear as though the buildings have been erected using the approved materials. Overall, this would support the Council's understanding that the two buildings were built taller than the approved drawings, with the U-shaped building approx. 0.4m taller and the storage building approx. 0.5m taller. The Council takes these documents submitted at face value and as a reflection of the on-site condition of these buildings. The Council's Enforcement Team have considered the increased height of the buildings and concluded that it was not expedient to take enforcement action against the buildings alone.

4.3.3 Furthermore, in a similar way to the previous case officer who dealt with application ref: 20/01832/FP, it is material to assess the weight to be afforded to any fall-back position of the previous consents under applications referenced 15/02582/1 and subsequently 17/04137/S73. The permission granted the "Erection of stable block for 12 stables; garage workshop and feed store/tack rooms following demolition of existing stables".

I have no evidence that the operative part of the permission, being the use associated with the description of the development for an equestrian/livery use, has been implemented. The supporting Planning Statement acknowledges this by stating

*“consideration must first be given to the lawful fallback position on the site, as the site has an approved consent under reference 17/04137/S73. This consent has been implemented, although the formal Use was never fulfilled”.* The applicant proceeded to use the two buildings for car sales/servicing in 2020 without planning permission, which was subsequently followed by an investigation from the Council’s Enforcement Team who invited an application to regularise the use. This was application ref: 20/01832/FP, which was refused by the Council and the applicant did not appeal this decision. The Council’s Enforcement Team met with the applicant in February 2023 where it was deemed appropriate to allow the applicant to submit another application to regularise the current unlawful use with professional help, unlike the previous application. This current application is the product of that advice.

- 4.3.4 Whilst the buildings may be immune from enforcement action currently due to the passage of time, the current use is not, and the applicant is seeking planning permission to regularise this use.

### **Planning Considerations**

- 4.3.5 The key issues for consideration are the

- The Principle of Development in the Green Belt
- The Impact on Designated Heritage Assets
- Design and Layout
- Living Conditions
- Highways, Access, and Parking

#### Principle of Development in the Green Belt

- 4.3.6 The North Hertfordshire Local Plan was adopted in November 2022 and is now part of the development plan, where full weight shall be given to relevant policies. The National Planning Policy Framework (NPPF) is a material consideration attracting significant weight.
- 4.3.7 The site is within the Green Belt. Policy SP5 of the Local Plan states that the LPA will only permit development proposals in the Green Belt where they would not result in inappropriate development, or where very special circumstances have been demonstrated. Section 13 of the National Planning Policy Framework (NPPF) stipulates that great importance should be attached to the Green Belt and that the main aim of Green Belt policy is to keep land permanently open. Paragraph 154 and 155 of the NPPF offer several exceptions to inappropriate development.
- 4.3.8 It is considered that the proposed use of the buildings does not comply with any of the exceptions to inappropriate development set out in paragraph 154 and 155 of the NPPF. The Council considered the possibility of this development being compliant with paragraph 155 d) the re-use of buildings provided that the buildings are of permanent and substantial construction. However, this exception is not engaged because the equestrian/livery use to which these buildings were permitted was never implemented and so the use for which planning permission is sought cannot be considered to be a re-use of buildings.

- 4.3.9 Paragraph 143 of the NPPF sets of the five purposes of the Green Belt, which are:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

- 4.3.10 It is necessary to consider the impact of the use on the five purposes of the Green Belt, and then consider what impact the proposed development would have upon each of those five purposes. It is acknowledged that the Council has not taken enforcement action against the buildings, which the Council understand have been built taller than approved in those historic applications. As things stand, it is considered that the two buildings approved under applications referenced 15/02582/1 and subsequently 17/04137/S73 have been erected on site and are currently immune from enforcement action due to the passage of time.
- 4.3.11 It is considered that there would be no conflict with Green Belt purposes with a, b, c and d. However, it is considered that there would be some conflict with purpose e). The use of the buildings for car sales/servicing is a use appropriate to urban areas, rather than rural areas such as this Green Belt site. Therefore, the use would be more suitable in an urban area and providing a suitable site could be located for this business, it would encourage urban regeneration and the recycling of derelict/urban land, instead of using rural areas that are designated as within the Green Belt. Therefore, it is considered that there would be some conflict with this Green Belt purpose.
- 4.3.12 Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. It is well established in case law that openness is split into two dimensions, the spatial and visual.
- 4.3.13 In terms of spatial openness, the buildings have been erected on site and are immune from enforcement action currently through the passage of time. The proposed use of the buildings for car sales/servicing does not have any material impact on spatial openness, as this is more about built form and massing in my opinion.
- 4.3.14 In terms of visual openness, the buildings on site whilst visible from Damask Green Road have been built to a high quality and appear rural in character and appearance, which is a positive from a visual openness perspective in the Green Belt. The only matter for consideration in this respect is the type and intensification of use from the proposed car sales/servicing use compared to the lawful fall-back position, which is the equestrian/livery use. The applicant has set out in the planning statement that the proposed use of the site would be less intense and result in significantly less activity compared to the lawful fallback position, primarily because the incredibly niche use for the sale and servicing of a select model of Porsches, which are of elevated value, would generate less trips and have more considerate hours of operation compared to the lawful equestrian/livery use which could support 12 horses and their owners with minimal limitations on occupancy numbers and operating hours.

This will be considered in greater detail later on in this report but for the purposes of visual openness, it is considered that the use of the site for the sale and servicing of a niche market of cars, could be less intensive in terms of trip generation and have less associated paraphernalia than the lawful equestrian/livery use, which would in turn have a lesser impact on visual openness.

4.3.15 As such, it is considered that the development does not comply with any of the exceptions to inappropriate development in the Green Belt set out in paragraphs 154 and 155 of the NPPF. Furthermore, there is limited conflict with the five purposes of the Green Belt; the use of the buildings for car sales/servicing conflicts with purpose e). Lastly, in terms of openness, it is acknowledged that the use of the site does not result in harm to spatial openness, as the buildings already exist on site. Further, the use of the site for the car sales/servicing of a niche market of cars would be less intensive and have less associated trips compared to the lawful fallback position for an equestrian/livery, resulting in a lesser impact on visual openness. The Council hereby acknowledge that the development is inappropriate development in the Green Belt and conflicts with purpose e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.3.16 Paragraph 152 of the NPPF sets out that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”*. Paragraph 153 of the NPPF goes on to state that *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”*. The Council will now consider whether Very Special Circumstances have been demonstrated which clearly outweigh the harm to the Green Belt by inappropriateness, and any other harm.

4.3.17 The agents have submitted several arguments which in their view, support the case for Very Special Circumstances. Firstly, which has been somewhat considered already regarding visual openness, is the intensification of use. The Planning Statement describes the business model as follows:

*“Friends Green Porsche is a high-end car servicing and sales company, that specialises only in Porsches, especially the niche market of the 996 and 997 generation of Porsche 911 cars. The site currently operates as 50/50 split of car sales and servicing. For the sales, it would be by appointment only, and for the servicing it would often be more of projects and refreshes, meaning that cars are left at the site for an average of 2 weeks at a time”*.

4.3.18 The agents state that in terms of movements to and from the site and the associated activity, the equestrian/livery use to which these buildings were permitted would have significantly greater movements/activity compared to the use of the buildings for the sale/servicing of a niche market of cars. The permitted buildings comprised a Stable Block with 12 individual pens, which could see a minimum of 12 individual owners of horses kept on site. The applications referenced 15/02582/1 and subsequently 17/04137/S73 did not enforce conditions to limit occupant numbers or hours of operation. The argument is also that it is more than theoretical that each of the 12 horses kept at the site could have multiple owners or carers. It would not be unexpected for each stable pen to have someone potentially visit twice per day, often for extended periods if the horse is ridden from the site. In addition, staff will be present throughout the operational day for maintenance purposes, as well as the possibility to do nightly security checks.

Additional regular visitors will include feed deliveries, waste collection, vet visits, paddock maintenance and other less frequent visitors involved in the running of a stable. Furthermore, the hours of operation for the equestrian use, which doesn't have a condition to limit it, could likely be in operation from as early as 05:00 until as late as 22:00 and be operated on weekends and bank holidays.

4.3.19 Compare this intensification of use and activity to the car sales/servicing of Porsches use, as the values of these products are elevated, the number of customers visiting the

site on a daily basis is limited, equating to approx. 2 per day. Customers would also leave their cars at the site for extended periods during their service at an average time of 2 weeks, as opposed to a drop off and pick up on the same day scenario. In terms of other regular movements, the site has 4 full time members of staff, as well as on average 1 delivery per day. This therefore means the site would have circa 6 vehicle movements a day. The hours of operation associated with this use would be more commercially traditional, such as 8:00 until 17:30 for example, and this would not operate on weekends and bank holidays.

- 4.3.20 In line with the above comparisons, it would be reasonable to conclude that the use of the site for car sales/servicing specialising in a niche market of Porsches would generate less trips, movement, and activity within more reasonable hours of operation, compared to the lawful fallback position of the equestrian/livery use. In this respect, the use of the site for the niche sale/servicing of Porsches would have a reduced impact on visual openness which can be considered a benefit to the Green Belt generally.
- 4.3.21 Secondly, it is also important to acknowledge the two buildings that have been erected on site. These buildings were approved under the applications referenced 15/02582/1 and subsequently 17/04137/S73 for the proposed equestrian/livery use. As already discussed, the buildings are taller than the approved drawings, with the U-shaped building approx. 0.4m taller and the storage building approx. 0.5m taller. The Council's Enforcement Team investigated this and considered that it was not expedient to take enforcement action against the buildings in isolation. Therefore, the two buildings at this site, which have been built to a high quality with suitable materials and appear rural in character and appearance, are capable of being used. There are no existing enforcement investigations against the buildings alone and seeing as historic investigations have deemed it not expedient to enforce against, one has to reasonably consider the prospect of these buildings remaining in situ.
- 4.3.22 Thirdly, under the applications referenced 15/02582/1 and subsequently 17/04137/S73 for the original consents, the floor plans showed a garage/workshop on the approved plans within the storage building. This was a large garage/workshop area of approx. 100sqm, and it is considered that the use of this building for car servicing would align with that permitted in those historic applications.
- 4.3.23 Fourthly, the agents have argued that for high-end car garages such as that proposed herein, it is not uncommon for such uses to operate in rural areas. The supporting Planning Statement makes the point that at Fairclough Hall Farm, Weston, which is approx. 1.75km away, Weston Datum motorsport operate a garage specialising in Lotus cars. Whilst this business operates in part of a wider site with various other businesses, the site is also within the Green Belt. The Council acknowledge that this similar site has been operating for some time and further acknowledge some similarities between the likely day to day operations and intensification of use compared to the proposed use of the application site, which weighs in favour of this proposal in my view.
- 4.3.24 Lastly, in terms of the potential enforcement of conditions should planning permission be granted, the Council would look to control several matters. In my opinion, it would be reasonable for the Council to control the hours of operation to 8:00 until 17:30 Monday to Friday, 8:00 to 13:00 Saturday, and not at all Sundays and Bank/Public Holidays, restrict the use of the site to car sales and servicing (Use Class B2) and for no other purpose, and to limit the outside storage or materials and display of vehicles for sale. Officers have considered the possibility of enforcing a Personal Condition which would limit the use of the site to the applicant and thereby limit anyone else from operating this use at this site, but this was deemed unreasonable as the application was submitted



under a company name, not the applicants name. In response it would be reasonable to enforce a temporary condition for 2 years to allow an assessment of the harm arising from this use. The Council have not received any complaints about the use of this site through the Environmental Health Team, so the material harm of this use can be considered over this time period and the applicant will have to re-apply to continue the use.

- 4.3.25 Whilst it is considered that there are material considerations that support the development it is necessary to consider whether there are any other harms to conclude whether there are very special circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.

#### Impact on Designated Heritage Assets

- 4.3.26 Policy SP13 of the Local Plan states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be given to the asset’s conservation and the management of its setting”*. This reflects paragraph 205 of the NPPF which stipulates that great weight should be given to the conservation of designated heritage assets, such as conservation areas. Policy HE1 of the Local Plan states that *“Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they: c) Will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is outweighed by the public benefits of the development, including securing the asset’s optimum viable use”*. This is reinforced by paragraph 208 of the NPPF.
- 4.3.27 The site has three listed buildings, Friends Green Farmhouse, Farm Buildings at Friends Green Farm, and East Barn and Attached Outbuildings, all of which are Grade II listed. Therefore, consideration is given to the impact of the proposal upon these heritage assets. Section 66 (1) of the Planning (Listed Buildings and Conservation Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building, or its setting, special regard shall be had to the desirability of preserving the building or its setting.
- 4.3.28 The Council’s Conservation Officer was formally consulted on this application, raising an objection on the basis that *“the use is not one that I would readily associate with a rural location adjacent to a former farmstead where there are 3 separately grade II listed buildings and that by reason of the amount of cars parked on site and the activity associated with the proposed (but currently unauthorised) use, that this has an erosive impact upon the character of the area but I must stress that there are no heritage-based policies on which to mount a case for **OBJECTION**”*. Therefore, I consider that the fundamental issue in heritage terms is the use of these buildings and whilst the Conservation Officer has raised some concern in respect of the proposed use in this rural location, the cars parked on site and the associated activity with this use, there are not maintainable reasons to object to this use in heritage terms which would be supported by relevant heritage policies.
- 4.3.29 Therefore, the proposed use of the site would not result in any harm to the setting or significance of the three Grade II listed buildings. Therefore, there would be no conflict with Policy HE1 of the Local Plan and Section 16 of the NPPF and the of the listed building and there setting would be preserved. There would be no impact upon their special architectural or historic interest.

#### Design and Layout

- 4.3.30 Policy D1 of the Local Plan states that planning permission will be granted provided that development responds positively to the site’s local context in addition to other criteria.

Policy SP9 of the Local Plan further considers that new development will be supported where it is well designed and located and responds positively to its local context. These considerations are echoed in Section 12 of the NPPF.

- 4.3.31 As already stated, the design of the existing buildings are not for consideration in this application.

#### Living Conditions

- 4.3.32 Policy D3 of the Local Plan states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

- 4.3.33 The use of the site for car sales/servicing has different impacts compared to the equestrian/livery use to which the buildings were permitted. The associated tools and systems in place to service cars has the potential to make noise that could harm the amenities of neighbouring properties, through general disturbance. However, the Council understands that the applicant has been operating this use at the site since January 2020 and through consultation with the Environmental Health Team, no complaints have been received. The closest neighbour, Anchor House, is due south and is approx. 70m-80m from the site, which is a significant distance. In my view, as no formal complaints or objections have been received from the immediate neighbours, it is considered that the use of the site, subject to the conditions outlined in section 4.3.24, does not result in material harm to the reasonable living conditions and well-being of neighbours, with respect to general disturbance. Whilst the temporary consent also effectively enables control over the user of the buildings, given that personal restriction is not applicable as the applicant is a company, which can be bought and sold, the temporary permission also retains control in the event the use intensifies and generates more noise and activity.

- 4.3.34 Therefore subject to the recommended conditions it is considered that the development does not conflict with Policy D3 of the Local Plan.

#### Highways, Access, and Parking

- 4.3.35 The Hertfordshire Highway Authority (HA) formally responded to this application on the 4<sup>th</sup> July 2023, objecting on the basis that the proposal would be unsustainable and would see customers and employees be solely reliance on private vehicles for travel, given the rural location. The HA also considered that insufficient information had been submitted to enable adequate assessment of car parking provision and visibility splays. Finally, the HA considered that there was no substantiated evidence to support the claim that the proposed use would result in a sizable reduction in traffic movements and parking requirements compared to the lawful fall-back position for the equestrian/livery use. The agent submitted a formal Transport Statement on the 14<sup>th</sup> November 2023 in an effort to overcome the objections.

This included TRICS data comparing the likely trips associated with both the lawful and proposed uses, commentary on the niche business model associated with the proposed use, visibility splays for the existing un-lawful southern access and consideration of a personal condition. The Highway Authority were re-consulted on this and provided formal comments on the 6<sup>th</sup> December 2023, where they acknowledged that the TRICS data shows that the proposed use would generate less trips than the lawful fall-back position use, given its niche nature. The HA considered that a personal condition would be acceptable in their opinion. However, the HA stated concerns with the visibility splays associated with the existing un-lawful southern access and invited the applicant to consider re-locating the access to the site. In response, the agents submitted a revised transport statement on the 16<sup>th</sup> January 2024 which, through consultation with the Highway Authority, they are proposing 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 re-consultation with the HA, a formal response was received on the 12<sup>th</sup> February 2024, stating no objection subject to two conditions.

4.3.36 It is therefore considered that through the closing up of the existing un-lawful southern access onto Damask Green Road and utilising the existing northern access instead, the access requirements are acceptable in highway terms in respect of vehicle safety, as the northern access can deliver forward visibility splays of 2.4m x 63m to the north and 2.4m x 135m to the south nearside kerb over land owned by the applicant and public highway by trimming of hedges that fall within the visibility envelope of the access, which the HA have considered acceptable. In my opinion, it is reasonable to enforce a condition that should planning permission be granted, within 3 months of decision a plan showing how the existing southern access will be closed up and landscaped will be submitted to and approved in writing by the LPA and the access will be closed in accordance with the agreed details. Moreover, the HA have requested the imposition of a personalised condition that restricts the use of the site to the applicant, to ensure that only this niche use can be operated from the site. However, the Council have considered this and have since concluded that we are unable to reasonably enforce this condition, as the application was submitted under a company name, not the applicants name. In response, the Council considers that it can enforce several conditions that restrict and control the proposed use which are considered reasonable and justified in line with the principle of the condition recommended by the HA, such as the temporary condition for 2 years, controlling hours of operation, restricting the use of the site and the storage of materials/vehicles.

4.3.37 In terms of parking, the two buildings measure approx. 207 sqm and 195 sqm in ground floor area. This totals 402 sqm and in accordance with the Vehicle Parking at New Developments SPD, for B2 uses there is a requirement for a maximum of 1 space per 50 m2 ground floor area, which totals 8 parking spaces for staff and visitors. The site benefits from an existing parking area which has been used historically at the north of the site, which could reasonably support more than 8 parking spaces, whilst there are several other areas behind buildings and within the courtyard that could hold a higher number of vehicles. However, given the nature of the proposed use, it can be reasonably expected that alongside the 2 full-time staff members who would travel to the site for work and park in this area, the site would be used for the storage of Porsche vehicles. Following a site visit made in July 2023, I was able to identify an area behind the main workshop building where several cars were parked, as well as within the 'U' shaped building. The site did not appear overly congested in terms of vehicles parked on site.

Therefore, in respect of the requirements for the Vehicle Parking at New Developments SPD and the material considerations that relate to the proposed niche use of this site and associated staffing, it is considered that the proposed development would be acceptable in parking terms.

4.3.38 Overall, through the submission of technical details and amended plans and through consultation with the Highway Authority, it is considered that the use is acceptable in terms of access and parking. This is in accordance with Policy T2 of the Local Plan.

#### Other Matters

4.3.39 A number of interested parties, including the Parish Council and the Conservation Officer, remain unconvinced that during the lifetime of the original applications referenced 15/02582/1 and subsequently 17/04137/S73, there was a viable business

case for the 12-stable operation and associated equestrian/livery use. The implication herein is that these applications have been used as a ruse to obtain planning permission for a built form that was never intended for its originally permitted purpose. In my view, whilst the situation around this site and these buildings is questionable, in these unique circumstances it is appropriate and reasonable in planning terms to consider approving this use subject to strict conditions.

#### 4.4 **Conclusion**

- 4.4.1 Overall, it is considered that the development, which seeks to continue to operate a very niche use on a site with existing buildings has positive material considerations that weigh in favour of the proposed use. I have not identified any other harm in respect of heritage, layout and design and neighbour amenity. Furthermore, via extensive consultation with the Highway Authority, the revised access and parking arrangements are considered acceptable.

As such, whilst I acknowledge the conflict with paragraphs 154/155 of the NPPF and purpose e) set out under paragraph 143, it is considered that the relevant material considerations put forward to support this development constitute Very Special Circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. The application is therefore recommended for approval, subject to conditions.

#### 4.5 **Alternative Options**

- 4.5.1 N/A

#### 4.6 **Conditions**

- 4.6.1 The applicant has formally agreed to the conditions relating to the temporary period of 2 years for the use and the closing up of the existing southern access following the submission of a plan identifying landscaping measures to be agreed in writing by the LPA.

#### 4.7 **Climate Change Mitigation Measures**

- 4.7.1 N/A

### 5.0 **Recommendation**

- 5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The use of the site for (Sui Generis) car sales and (Use Class B2 general industrial) car servicing shall be discontinued on or before 2 years from the date that planning permission is granted.

Reason: Permission has been granted for a temporary period solely to monitor the use and the appropriateness of the development in regard to amenity and impact upon the Green Belt in accordance with Policies D3 and SP5 of the North Hertfordshire Local Plan 2011-2031.

2. 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.

3. The use hereby permitted shall not be open to customers, no machinery shall be operated and there shall not be any deliveries outside the hours of 8:00 until 17:30 Monday to Friday, 8:00 to 13:00 Saturday, nor at any time on Sundays and Bank/Public Holidays.

Reason: In the interests of amenity in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

4. The premises hereby permitted shall only operate for car sales and servicing (Use Class B2/Sui Generis) and for no other purpose, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To control the use of the site in accordance with Policy SP5 of the North Hertfordshire Local Plan 2011-2031.

5. No materials/vehicles associated with the car sales/servicing use shall be stored in the area due south of the existing buildings as shown on plan ref: FGP1- 1.

Reason: To protect the visual openness of the Green Belt in accordance with Policy SP5 of the North Hertfordshire Local Plan 2011-2031.

6. No adverts/signage associated with the proposed use of the site shall be erected.

Reason: To maintain the rural character of the area, in accordance with Policy D1 of the North Hertfordshire Local Plan 2011-2031.

7. Within 3 months of the development hereby approved, all access and junction work shown on the approved plans with sight lines of 2.4m x 63m to the north and 2.4m x 135m to the south measured to the nearside kerb over land owned by the applicant and public highway shall be provided to the access road serving the development and shall be completed, unless otherwise agreed in writing by the Local Planning Authority. The sight lines shall be permanently maintained in both directions.

There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level by trimming of hedges that fall within the visibility envelope of the access.

Reason: To ensure the site benefits from safe access with acceptable visibility, in accordance with T1 of the North Hertfordshire Local Plan 2011-2031.

**Proactive Statement:**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. 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.