



Botus Fleming Parish Council

BFPC PLANNING REASONS AGAINST PA22/10400

1. Application Form

- BFPC considers this application to be as a **whole** retrospective, not “in part” as stated in the application. The change of use and groundworks evident on Sites 1 **and** 2 were evident long before the current application was submitted.
- BFPC is also especially dismayed that the applicant appears to have tried to avoid using the accepted processes for change of use by applying to the Traffic Commissioner in Leeds for permission for change of use. We would question the lawfulness of this approach. It would appear underhand and disrespectful to our community.
- The entire application form is full of errors and inaccuracies (far more wrong than are actually correct. This reflects badly on the applicant and his agent who seems to think that our residents, their Parish Council and Cornwall Council can be easily duped.

2. Applicant's Planning, Design and Access Statement

- The applicant rightly maintains that in the National Planning Policy Framework (NPPF) there is a presumption in favour of sustainable development. However, the applicant conveniently omits to mention the caveat “**unless material considerations indicate otherwise.**”
- In its detailed response to this application BFPC demonstrated that there are numerous reasons why this change of use would be neither sustainable nor appropriate for this location.
- In short:
 - The siting of a building supplies business and a drainage company would best be done on an industrial estate, of which there are numerous in the Cornwall Gateway. Allowing the establishment of such businesses does nothing to add to local employment and in a rural location such as this has and is totally inappropriate.

- The noise, dust, traffic hazards and light pollution has and will continue to materially affect the social development, and physical and mental health of the village and its residents, especially those unfortunate enough to live near to the site.
- The previous point is well supported by the NPPF's contention that plans should foster "*well designed, beautiful and safe places that support places health, social and cultural well-being.*" The current situation and the proposed change of use render this completely impossible.
- The NPPF further sets an objective to "*protect and enhance our natural, built and historic environment improving biodiversity*". Even the most cursory glance at the current state of the site would demonstrate that it has and would nullify those objectives at a stroke.

Botus Fleming is and has always been a quiet, peaceful village characterised by sunken lanes topped by high hedges and trees threading through a patchwork of green fields.

- An important part of Policy 2 emphasises the need for "***respecting and enhancing quality of place***". The location of the site is at the start of one of the first roads that leads into the Tamar Valley Area of Outstanding Natural Beauty (TVAONB) as one enters Cornwall from the east. The boundary of the TVAONB lays a mere 250m from the site, thus placing it firmly in the setting of the valley. Were the application to be approved, this dusty, haphazard collection of casualties from the local road network would be the first thing the unwary visitor would see. It is and would be a dreadful welcome to the Tamar Valley!
- In 2018 when BFPC commented on the previous application for this site (PA17/11798), councillors expressed their concerns about the increase in traffic accessing the site. Sadly, these concerns have been fully realised. Car transporters, recovery vehicles and contractors' vehicles exiting and entering the site have lead to unacceptable traffic hazard, noise and pollution made worse by its location on a "blind" bend.

BFPC maintains that the proposed development would have a serious impact on the social development of the area. As has already been shown, there is a private dwelling less than 25m from the site. The noise, dust, light pollution and traffic hazard caused by the use of the site has already had a significant impact on the quality of life of the resident, making a relaxed afternoon in the garden an impossibility now.

Should this situation continue there are good grounds for fearing the impact on the resident's physical and mental health.

The National Planning Policy Framework (NPPF) states that to achieve its social objective, plans should foster "*well designed, beautiful and safe places ... that support communities' health social and cultural well-being.*" (Section 2 Para 8). This application would make a mockery of such aspirations.

The NPPF environmental objective sets out “*to protect and enhance our natural, built and historic environment... improving biodiversity.*” (Section 2 Para 8). Should it be approved, this application would result in the desecration of the natural environment there, seriously detracting from the beauty of the rural setting and doing nothing to improve biodiversity.

2.4 There is an overarching strategy to improve conditions for business and investment throughout the county to drive an increase in gross value and overall prosperity within the county.

2.5 Policy 2 ‘Spatial Strategy’ and particularly paragraph 3 (m) notes that proposals will be welcome that improved conditions for business and investment in Cornwall and particularly supporting economic development in South East Cornwall that meets the area’s own needs and benefits from its relationship with Plymouth. Paragraph (o) goes on to state that there is a ‘requirement for strengthening the role of Launceston and Saltash as gateways to Cornwall’.

An important part of Policy 2 emphasises the need for “*respecting and enhancing quality of place*”. The location of the site is at the start of one of the principal roads that leads into the Tamar Valley Area of Outstanding Natural Beauty (TVAONB).

Should this application be approved, the first thing the unsuspecting visitor in search of natural beauty would behold, would be a yard full of wrecked vehicles, recovery vehicles and car transporters. In short, an environmental and aesthetic eyesore.

Much of Cornwall’s prosperity depends on the tourism brought down here because of the county’s beauty. This development would detract from, rather than enhance Cornwall’s tourist potential.

2.6 Noting the application site is located in South East Cornwall and two miles from the town of Saltash and just off the main A388, which links the site to the town of Saltash and Plymouth beyond and to the north Launceston. It can be seen therefore that the reuse of the land for this purpose accords with this policy.

2.7 Policy 5 ‘Business and Tourism’ paragraph 1 states to ‘ensure a continued supply of appropriate business space, proposals for new employment land and uses should be at paragraph (a) well integrated with towns and villages or, at paragraph (b), within areas that are well served by public transport and communications, infrastructure. As referred to herein, the site is located just off the busy A388, by the Hatt roundabout, with Hatt village beyond. The site is therefore within a sustainable location, extremely well served by public transport and communication infrastructure.

This site is most certainly not “well-integrated” with the village of Botus Fleming. The haphazard jumble of building supplies, portaloo and large vehicles are totally at odds with the sleepy, rural character of the village. The settlement is characterised by narrow, sunken lanes lined by Cornish hedges, green fields and woodland. As pointed out above, there are even better transport links that could be accessed from sites in Saltash and Carkeel. Sited there, the business would not be at all out of keeping with the surroundings.

3. Conclusion

In our opinion the planning application was poorly completed and peppered with serious inaccuracies throughout.

BFPC believes that it demonstrated a degree of disdain for our residents, the Parish Council and Cornwall Council.

In summary, this application does not reflect the stated wishes of the local population or those that represent them. Residents that are close to the site have objected to the application.

The closest resident has commented, "I strongly object to this application. I feel this site is totally unsuitable for this sort of use. At present the business causes noise when lorries are unloading building materials from early in the morning till late in the day. Other vehicles and machinery on site are going to generate noise when loading materials. In dry weather it is likely to cause serious problems with dust being blown down into my property as has happened previously. I feel traffic in and out of the entrance is a hazard, with it being close to a very sharp blind bend. The site is an absolute eye sore, and is not in keeping with our lovely rural environment. The site is totally detrimental to natural habitation and wild life. I believe this sort of business should be situated on an industrial estate away from any residential homes."

We believe that the suggestion that "a condition restricting hours of operation to normal construction hours would result in benefits to the nearest residents to ensure operations are only carried out during the day time" would be completely ignored and then not enforced to the detriment of our residents.

The suggestion that "many of the adverse impacts which the Parish Council have raised can be suitably addressed via planning conditions" is also sadly misplaced. We believe that any such conditions would also be completely ignored and then not enforced.

The applicant has a history of abusing planning law and establishes businesses or invites business tenants onto his site to conduct operations and businesses that have no planning permission and are totally out of keeping with the village.

BFPC considers this application to be seriously flawed, selective in its references to accepted good planning policy and insensitive to the needs and wishes of local residents.

To ensure continued confidence in the planning process, BFPC submits that this application should be refused, and that Cornwall Council Planning Enforcement should order immediate cessation of current activities on the site.

Botus Fleming Parish Council

31st March 2023

Botus Fleming Parish Council would also like to add the 2 public comments from Cornwall Council's Online Planning Register and the attached piece of short video footage in support of our reasoning.

Mr Stephen Malcolm

Comment submitted date: Tue 11 Apr 2023

Having been a resident of the Hatt and Botus Fleming for over 36 years, I am passionate about the preservation of this Parish and its community.

I would like to object to the planning application for Retrospective Approval for this site.

It is fundamentally wrong to start using a site in contravention of the activity that is permitted by existing planning permission.

This site has planning permission for agricultural activity, not commercial, and in that case should be the subject of planning enforcement, not an underhand attempt to gain permission by starting an activity and applying for retrospective permission shortly afterwards.

It should be noted that this is not the first time this approach has been taken on this site. (See Botus Fleming Parish Council Report to PA22-07108 Appendix).

In terms of enforcement, from "Your guide to planning enforcement and its powers - Cornwall Council" there are clear breaches of planning:

- Building or engineering work and the change of use of land without a planning permission
- Non-compliance with approved plans attached to planning permissions
- Unauthorised advertisements or signs
- Unauthorised change of use of land/buildings

Additionally, Cornwall Council must decide whether the breach of planning control affects amenity.

Taking the definition of amenity from the Oxford Languages dictionary to mean "The pleasantness or attractiveness of a place: e.g. "Developments which would clash with amenity"

As has been commented on by others, this site is close to the edge of the Tamar Valley AONB and the village of Botus Fleming with residential dwellings very close by as such allowing this commercial development to remain would clearly have an adverse effect on the 'amenity' of the area.

The site is dealing with building materials and minerals and as such this application could be called into question under Town and Country Planning Act of 1990 Schedule 1 regarding minerals:

Town and Country Planning Act 1990 (legislation.gov.uk)

Look at The National Planning Policy Framework it shows that planning should have been acquired before 'material development'.

When is permission required? - GOV.UK (www.gov.uk)

That again draws attention to the Town and Country Planning Act this time Section 55 (5) this site is already being developed in contravention of existing planning permission.

Town and Country Planning Act 1990 (legislation.gov.uk)

(5) In subsection (4)(e) "material development" means any development other than-
(a) development for which planning permission is granted by a general development order [F12 or a local development order] for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

In summary, I object to this planning application on the grounds that:

- a) The applicant is attempting to circumvent proper planning procedures by starting a commercial operation in contravention of the existing agricultural use planning permission and then applying for retrospective permission. A repeat of the attempt to have Tonkin and Keltec recovery vehicles use of the site in 2022 when retrospective planning was not granted.
- b) There are several breaches of planning that require enforcement action.
- c) The 'amenity' of the area is being adversely affected in the approach to Botus Fleming and Tamar Valley AONB.
- d) The site is being used for building materials and minerals without permission.
- e) The site is already under 'material development' without permission.
- f) It is a dangerous precedent to set for a person or business to be able to set up and use land for any activity without proper planning permission being correctly acquired beforehand.
- g) For Cornwall Council then to subsequently just sign off 'retrospective permission' rather than conducting 'enforcement' as should be done in cases such as this is a clear abuse of the planning system and should not be tolerated.

Not only that, this is a repeat offence.

Mr John Invest

Comment submitted date: Tue 11 Apr 2023

I would like the Planning committee to be fully aware that most of the supporters of this retrospective planning application do not live in the village or near the site but have been

rounded up to try to counteract the objections by the true residents of Hatt/Botus Fleming. The Planning committee should give due weight to the objections of people that actually live in the village and have to pass this eyesore every day. Many of those in support live miles away and are unaffected!

Mr Deacon seems to believe planning law does not apply to him and has allowed and massive amount of building materials to be deposited at the site and also allow another Water company to use the site. They have installed portabins as offices, floodlights, CCTV. Is this fitting for a rural village? Do not be fooled by the statement of creating local jobs. No one working there is from the village I believe they are imported from Plymouth.

The Parish council voted unaiminously to reject this application, does this count for nothing with Central Planning? They are there because they know the village and know the wish of residents. Please do not dismiss their vote out of hand.

Approve this and it will be the thin edge of the wedge and they will expand, put up permanent offices etc. etc. There are many industrial sites at Saltash that are designated for activities like this not a small rural village close to ANOB.

Comment submitted date: Wed 14 Dec 2022

PLEASE USE THIS VERSION RATHER THAN PREVIOUS SUBMISSION
The applicant Mr Deacon has a history of abusing planning law and establishes businesses or invites business tenants onto his site to conduct operations and businesses that have no planning permission and are totally out of keeping with the village.

Mr Deacon has already had to remove Keltek Motors from the site after allowing them to use the site illegally and create a local nuisance. So now he has invited two other companies onto the site without any prior planning permission and is trying to circumnavigate planning law by saying they are established and are causing no harm.

The history of this site is that it was a market garden at one time and then used just for the storage of agricultural machinery, which was in keeping with the local, agricultural area and no one objected.

He may purport that there is a history business operating from here in the past but this is simply not true.

He has now resorted to attempting to employ the site in any way for monetary gain with no respect to planning or local residents.

I object strongly to the application for the following reasons:

1. The site and its entrance is in a dangerous position and lorries coming in and out on a sharp corner will inevitably cause a serious accident.
2. He has allowed a huge building supplies to use the site and I do not see them mentioned in the planning application?? They are storing huge amounts of building materials on site and operating it as a retail outlet. This site is not suitable as a retail outlet with multiple vehicle movement during the working day especially lorries delivering

and collecting building materials. The Building company has erected signage facing Hatt roundabout without any planning permission. This is both illegal and dangerous for people trying to read it as they approach or negotiate a roundabout.

3. The type of operations that are illegally occupying the site now are totally out of keeping with Botus Fleming which sits in the Tamar Valley area of outstanding Natural beauty. This kind of operation should be on an industrial estate not at the entrance to a beautiful village.

4. Vehicle movements are already disturbing some local residents. Lorries are noisy and the reversing warning noises are very intrusive to close neighbours.

5. I am also concerned with all the building materials on site what the environmental impact is on the ground and leaching of chemicals into the soil and waterways.

6. The applicant fearing enforcement has now applied for retrospective planning as he is operating illegally. The Planning Committee should not allow this to gain approval just because it is now there. A precedence has been set that Keltek Motors had to go because of the danger they caused on the same site so why should these stay?

As a local resident I beg the council to refuse this application and follow up with enforcement to return the site to a agricultural storage site