

## North York Moors National Park Authority

<b>District: Hambleton District</b> <b>Ward: Osmotherley &amp; Swainby Ward</b> <b>Parish: Whorlton</b>	<b>App No. NYM/2020/0342/FL</b>
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**Proposal:** extension to existing car park, cladding of containers and of north elevation of existing building, construction of single storey side extension and revised internal layout (part retrospective)

**Location:** The Rusty Bike, 20 Black Horse Lane, Swainby,

**Applicant:** Mr John Nelson, 20 Black Horse Lane, Swainby, DL6 3EW

**Agent:** MD2 Consulting Ltd, fao: Mr Glenn McGill, The Dene, 36 Nevilledale Terrace, Durham, DH1 4QG

**Date for Decision:** 25 August 2020

**Grid Ref:** 447461 502226

### Director of Planning's Recommendation

**Approval** subject to the following condition(s):

1. TIME01 Standard Three Year Commencement Date
2. PLAN01 Strict Accordance With the Documentation Submitted or Minor Variations - Document No's Specified
3. RSUO00 The premises shall not be used other than as café and bicycle hire/repair centre and shall not be used for any other purpose (including any other purpose in Class A1 or A3 or any use in Classes A4 or A5) of the Schedule to the Town and Country Planning (Use Classes) Order 2010 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, or within Schedule 2, Part 3, Classes A-V of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order).
4. GACS00 The shop and cafe hereby permitted shall not be open to customers outside the hours of 8.00am to 6.00pm Mondays to Saturday and 9am to 6.00pm on Sundays and Bank Holidays. Any variation to these hours to enable individual events will require the prior written consent from the Local Planning Authority.

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## Condition(s) continued

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| 5.  | GACS00 | If at any time hot food is prepared other than the re-heating of food in a microwave oven, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues. Should this condition not be met then the use of the land for the approved purposes of café and bicycle hire/repair centre and shall cease until such a time that the condition has been complied with. |
| 6.  | GACS07 | External Lighting - Submit Details  |
| 7.  | MATS19 | Roof Colouring (dark grey)  |
| 8.  | MATS26 | Timber Cladding (horizontal timber boarding)  |
| 9.  | MATS26 | Timber Cladding (vertical horizontal timber boarding)   |
| 10. | MATS28 | Timber Cladding Samples   |
| 11. | HWAY15 | Parking Spaces to Remain Available for Vehicle Parking  |
| 12. | HWAY00 | The following schemes of off-site highway mitigation measures must be completed as indicated below:   |

Measures to stop vehicle parking and vehicle access from the A172 to the rear of the business should this become a problem as a result of the car park being constructed.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

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## Condition(s) continued

13.        HWAY00    The access, parking, manoeuvring and turning areas shall be constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

14.        HWAY00    No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. restriction on the use of the access from the A172 for construction purposes;
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

15.        LNDS09    Details of Boundary Treatment to be Submitted

16.        LNDS10    Details of Hardsurfacing to be Submitted

**Informative(s)**

1.        INF00    Please note that advertisements may require the separate express consent of the Local Planning Authority under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. You are therefore advised not to display the advertisement(s) until such consent is obtained.

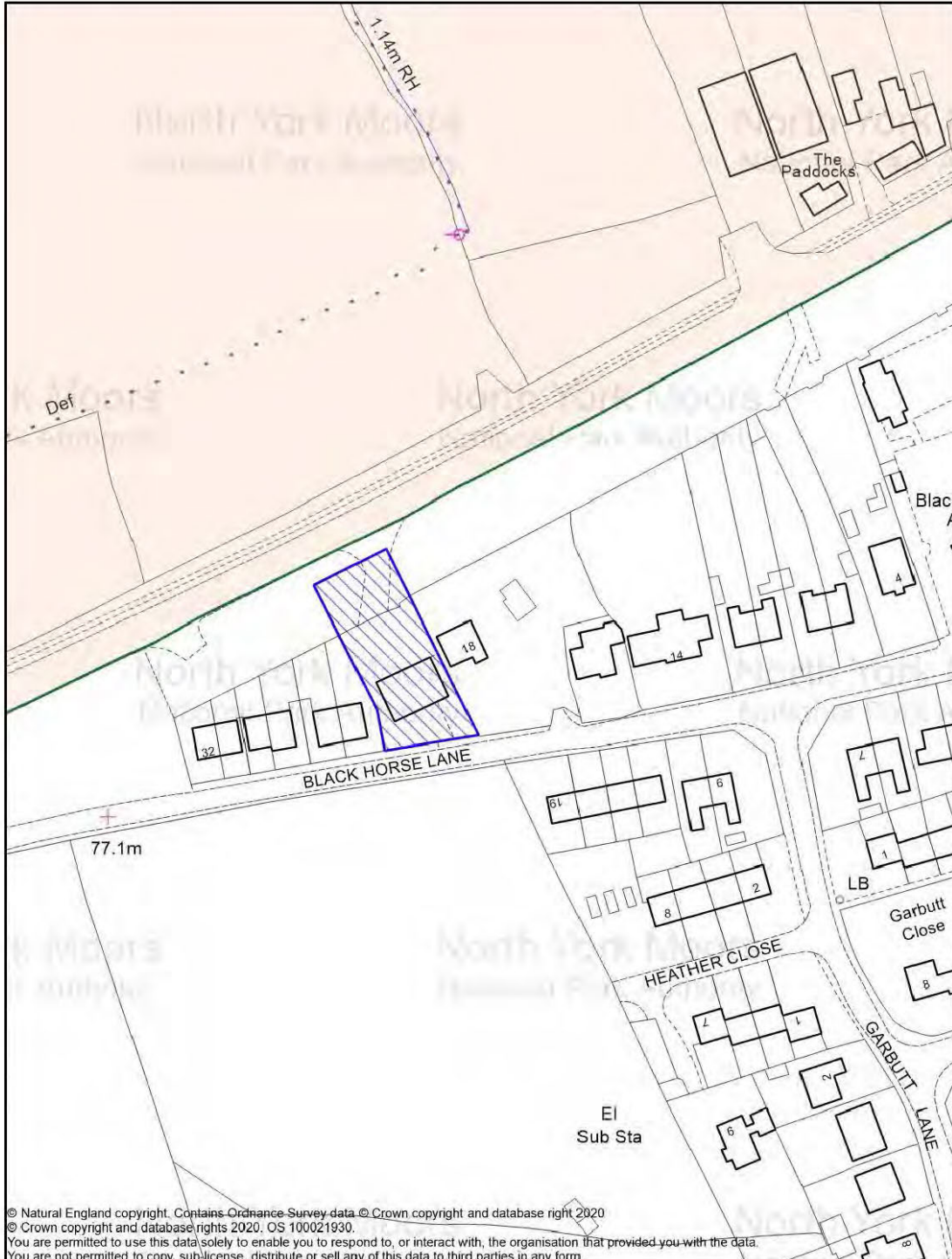
2.        INF00    The applicant is advised to contact the Environmental Health Service for advice and assistance because a food business must be registered with the Council and there are specific physical requirements for food premises which must be complied with, as well as having a food safety management system in place. Also advice can be given on the sanitary accommodation for the staff and the public



North York Moors  
National Park  
Authority

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Scale: 1:1250



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**Consultations**

**Parish – 22/07/2020** – Support. Whorlton Parish Council had been involved in asking for the use of highway land behind the premises to be used in order to help alleviate severe traffic problems on Black Horse Lane, as minuted March/April 19.

**Ward –**

**Highways – 29/07/2020** – Conditional approval. The land over which the extension to the car park is proposed is both owned by the County Council and also highway maintainable at the public expense. Should the application gain planning approval then the area of land would require to be Stopped Up by Order. A Stopping Up Order extinguishes all highway rights from an area of land the Order is subject to. The correct process to enable obtain a Stopping Up Order is via Section 247 of the Town and Country Planning Act 1990. If the planning application is successful then the Secretary of State may grant the Stopping Up Order if all other requirements relating to the process are satisfied.

**North Yorkshire Police Designing Out Crime Officer – 8/07/2020** – Having reviewed the documents submitted in relation to designing out crime, it is considered that the boundary treatment proposed for the extension to the car park would leave the rear of the site vulnerable to crime until the hedging had matured.

**Environmental Health Officer – 16/07/2020** – No objections. Have considered this plan with respect to the potential for the changes to cause nuisance or the loss of amenity to local residents and cannot envisage any issues.

**North Yorkshire Fire and Rescue – 21/07/2020** – No objections/observations

**Northumbrian Water – 20/07/2020** – Northumbrian Water actively promotes sustainable surface water management across the region. The developer should develop their surface water drainage solution by working through the following, listed in order of priority:

- Discharge into ground (infiltration)
- Discharge to a surface water body
- Discharge to a surface water sewer, highway drain, or another drainage system
- As a last resort, discharge to a combined sewer

**Site Notice Expiry Date** – 28 July 2020

**Others –**

The following people have written in support of the application for some or all of the following reasons:-

**S Hawthorne, Pump House, High Street, Swainby**  
**M & J Hinman, 19 Church Lane, Swainby**  
**AG Milburn, 14 Garbutt Lane, Swainby**  
**K Hamilton, 27 High Street, Swainby**  
**M Harrison, 15 Garbutt Lane, Swainby**  
**R Lincoln, 9 Garbutt Lane, Swainby**  
**A Tate, 16 Blackhorse Lane, Swainby**

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Others continued

**S Foster, 72 High Street, Swainby**  
**M Foster, 7 Garbutt Lane, Swainby**

- Provides a great service to the village and is a much needed social hub
- The parking is essential since they are a popular destination for villagers and travellers alike.
- Some locals are upset that people are parking on the road and a car park would help to ease their concerns
- The Rusty Bike provides jobs in the area and is an asset to Swainby
- The Rusty Bike serves a wide range of customers throughout the week and its contribution to the wellbeing of people is significant, especially those who cannot travel easily.
- More local jobs have been created by the cafe than any other recent development.
- Creation of the extension and revised layout will improve the cramped kitchen space.
- By granting this permission this will resolve the parking issue in that vehicles will be able to park in the extended rear car park.

**The following people have objected to the application for some or all of the following reasons:-**

**G Smith, 30 Black Horse Lane, Swainby**  
**G Shimwell, 26 Black Horse Lane, Swainby**  
**Mr & Mrs Johnson, 22 Black Horse Lane, Swainby**  
**A Jefferson, 28 Black Horse Lane, Swainby**  
**Mr S Garbutt, Whorlton Dene, Swainby**  
**Miss S Garbutt, 32 Black Horse Lane**  
**G Morgan, The Blacksmiths Arms, Swainby**

- The café should remain small and the premises operate as a bike shop and bike repair shop with a small area for bike customers to have a coffee
- Do not object to the carpark being made larger but as the café operates at the moment the area would remain too small for the amount of customer's cars.
- Object to any development to the café as it can have over 50 customers inside throughout the weekends and holidays.
- Have trouble entering and leaving my driveway due to parked cars. This is very unsafe and dangerous as Black Horse Lane is only narrow.
- Object to the side extension to the building the shipping containers and the extra seating as this will make the café too large for a residential area.
- The entrance to the carpark is very narrow and again parked cars on the road block the view for customers leaving the carpark.
- The noise from customers and cyclists sitting outside is awful. My garden is only a few metres from this outside seating. My privacy has been hugely compromised and I no longer enjoy my garden.
- Developing this business will generate the issues already being experienced by the locals.
- Frequently been woken by the café's metal shutters closing as late as 1.30am and vans

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Others continued

- driving off the forecourt
- To develop the café is ludicrous; it should be restricted to no more than twenty covers and a couple of benches outside and the premises are not used by anyone after 8 or 9pm.
- The carpark should be fully completed with car charging points in place prior to any other planning requests being discussed.
- The access to the carpark needs to be much wider; it's very small and exits onto the pavement. A larger carpark would be to the detriment of the close neighbours due to excess noise and I feel very sorry for them.
- The two shipping containers would infringe on the parking area.
- The café is already too large to be in a residential setting.
- The premises can still provide essentials like milk and bread and have a cosy area for locals to enjoy a coffee and a cake. The owner can then concentrate on the bike side of the business which he originally planned to do.
- Black Horse Lane is very narrow with large sections having no footpath. It is main access in and out of the village, a bus route, a popular route for horse riders and a necessary route for heavy farm traffic.
- The proposed electric car charging points would be better sited in a more central public area for all to use.
- The side extension would not be needed if the café operated on a sensible scale for the area.
- The shipping containers are an eyesore and should not be allowed to remain unclad or clad. The bikes they house should be displayed in the main building and the workshop should remain in the main building. Leaving a third of the floor area for the café.
- Extending the car park to the rear of the cafe will not relieve and parking issues on Black Horse Lane as customers only use the car park once Black Horse Lane is full and the changes internally of cafe will only increase the covers taking up any spaces created by the extension of the car park. As for the knee high fence this will only encourage people to park on the grass verge of the A172 and step over the fence in to the car park.

### **Background**

Planning permission was granted in 2013 for the change of use of an existing garage workshop on Blackhorse Lane in Swainby to form a cycle shop and hire centre along with a café for the use of customers to the shop.

At the time of that approval, there was concern that if a significant retail/café element was allowed here, it would have a detrimental impact on local services and threaten the viability of the only village shop, which included a small cafe. In order to overcome those concerns, the approval was conditioned that the café would be for the use of customers of the bicycle business only and provide a maximum of six covers.

However, subsequent to that permission, the village shop closed and a café operated from the application site outside the limits of the restrictions attached to the original approval.

Consequently, a planning application was submitted and approved in 2016 to vary the conditions of the original approval, to enable the premises to operate as an unrestricted café



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Background continued

(i.e. not just customers using the cycle shop facility) and a shop; and to provide a greater number of covers; to open an hour earlier in the morning to provide a service to local residents who would use the shop facility and to allow a single light at the front of the premises.

In support of that proposal the applicant advised that since the closing of the village shop, he had been asked by many local residents to provide basic food essentials such as milk, eggs and bread; also, a large part of the customer base were cyclists passing through, but not necessarily requiring any bike parts from the shop.

However, the use has operated for some time not in accordance with the original plans and problems have continued with regards to parking, mainly in that the interior of the building operates mainly as a café, with enquiries for the cycle shop made to the counter and the workshop operating at the rear of the unit with two metal storage units sited at the rear of the unit, used for bicycles and components.

Consequently this current planning application seeks permission to change the use of part of the deep grass verge at the rear of the property (adjacent the A172) to provide additional parking. This would increase the parking provision from 10 spaces at the rear and disabled parking on the forecourt to 15 spaces and motorbike parking at the rear with disabled spaces on the forecourt.

Permission is also sought for the retention of two storage containers at the rear of the premises, a single storey side extension along with revision to the internal layout of the building.

In terms of changes to the internal layout it is proposed to continue to run the business based upon its current operation by combining the café and bike hire business in the same area at the front of the unit.

A small mono-pitch lean-to extension is proposed at the eastern side to provide additional storage space, with a door at the front and back and with a connection through to the existing premises.

It is proposed to enclose the two containers within an exterior wooden shell, with horizontal timber cladding and a pitched grey profile sheet roof.

It is proposed to extend the parking on to the adjacent highway verge adjacent to the A172, which is in the ownership of North Yorkshire County Council. The extra spaces would be enclosed by a low wooden fence and hedging. The applicant has approached NYCC regarding a potential lease.

In support of the application the applicant has stated the following:-

The vast majority of our customers are cyclists and at times there are as many as 20 bikes outside the Rusty Bike, People hiring bikes are just part of the everyday comings and goings they don't have a designated area or particular cycle uniform to identify them.

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**Background continued**

I carry out the repairs on an evening when the cafe is closed to customers, and again people bring bikes for repair leave them locked to our bike rail along with other customers during the course of the day and will often take the opportunity to have a coffee and cake.

We only heat food in our kitchen other than our fresh scones. My Daughter bakes our cakes in the evening as the space is limited in our kitchen when I'm fixing the bikes. My son helps now and then, and when we have all finished we will sit and have a coffee.

During lock down we set up a food delivery service, and have a next day order cut off at 20.00hrs which has meant that by the time some cakes are cooked it will be late eve. Our roller shutter sometimes gets a bit squeaky, so I oil it regularly.

Most people who visit the Rusty Bike are aware of the issues and along with signage very few people venture near the house's to park.

Hopefully, if we can successfully negotiate with North Yorkshire Highways to buy/lease the land between us and the A172 we can go a long way to solving this problem.

In terms of covers, pre lock down I counted seven tables average of four chairs per table, and we have approx. enough for 35 settings. If you count every stick of sit-able furniture including old oil drums and garden benches inside and outside I make it 55. But now, if and when we open inside using all the tables most likely 14 possibly at stretch 21 covers.

**Main Issues****Local Plan**

The main issues are whether the proposed development will be detrimental to residential amenity in the vicinity of the application site, in terms of both activity levels and visual amenity; whether the proposal will lead to a detrimental impact on road safety and whether the development will improve the vitality and viability of the village within the context of planning policy.

The main pertinent Local Plan policies are Strategic Policies B (Spatial Strategy), C (Design) and J (Tourism and Recreation), Policy UE1 (Location of Tourism and Recreation Development), Policy BL8 (Shops, Offices etc) and Policy CO2 (Highways)

Strategic Policy B seeks to support development in the larger villages such as Swainby where development supports the service function of the village by providing additional housing (principal residence and affordable housing), employment and training premises and new facilities and services for the immediate and wider locality.

Strategic Policy C seeks to maintain and enhance the distinctive character of the National Park, and states that development will only be supported where it is of a high quality design; incorporates good quality construction materials and design details that reflect architectural character and form of the original building or the local vernacular; the siting, orientation,

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**Main Issues continued**

layout and density complement existing buildings; the scale, height, massing and form are compatible with surrounding buildings and not have an adverse impact upon the amenities of adjoining occupiers; sustainable design and construction techniques are incorporated; there is a good quality landscaping and planting scheme; local wildlife and biodiversity is enhanced; provision is made for adequate storage, cycling facilities and car parking are provided and the proposal ensures the creation of an accessible, safe and secure environment for all potential users.

Strategic Policy J seeks to support tourism and recreation where it is consistent with the principles of sustainable tourism; does not lead to unacceptable harm to the local landscape character or an ecological or archaeological asset; provides and protects opportunities for all people to increase their awareness, understanding and enjoyment of the special qualities of the National Park; is of a quality, scale and design that takes into account and reflects the sensitivity of the local landscape; any accommodation is used only for short term holiday stays; it does not compromise the enjoyment of existing tourism and recreational facilities or Public Rights of Way; and it does not lead to unacceptable harm in terms of noise and activity to the immediate neighbourhood.

Policy UE1 seeks to permit recreation development where it is located in Helmsley or within the main built up area of one of the villages; or in Open Countryside where it involves a small scale conversion and/or extension of an existing building of architectural or historic interest, or where it complies with Policy UE2.

Policy BL8 seeks to support new retail development, professional and financial and food and drink services where the proposal is in accordance with the policies in the Helmsley Local Plan; is within the main built up area of Larger Villages; within the main built up area of Smaller Villages where they are compatible with the character of the area or in Open Countryside where new proposals are ancillary to an existing enterprise. Proposals resulting in the loss of retail development will only be permitted if it can be demonstrated robustly that the facility is no longer suitable for retail use, in accordance with the viability and marketing tests.

Policy CO2 only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety; the external design and layout and associated surfacing works take into account, as appropriate, the needs of all users including cyclists, walkers, horse riders and users of mobility aids; and highway detailing, road improvements and street furniture are sensitive to the character, heritage, built form and materials of the area, the need to conserve and enhance biodiversity and are the minimum required to achieve safe access.

**Principle of Commercial Use**

The site, whilst on the edge of the village is considered to be within the main built up area of the village and the principle of a commercial use here has already been established by the 2013 planning permission and previous use as a commercial garage. The principle of the re-use as a café and bike hire/repair centre is supported in terms of Policy BL8

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**Main Issues continued**

Since the original facility was approved, the village shop closed (although it has now re-opened) and this provides an important facility in the village. It is considered that the combined use of this site as a café, local shop as well as bike facility meet the requirements of Strategic Policy B and Policy BL8.

**Car Parking and Highways Issues**

There have been issues with regards to parking and access and objections have been received from occupants of neighbouring residential properties due to the excess on street parking. The access onto the A172 is not to be used, with access only being from Blackhorse Lane. However due to insufficient parking at the rear, there have been issues with roadside parking on Blackhorse Lane. This proposal would provide an additional five car parking spaces, and space for motorbike parking.

The Highway Authority has not objected to the proposals and this proposal should also be considered against the previous lawful use of the site is as a light industrial unit as a car workshop. This current use is considered to be less of 'a bad neighbour use' than that previous use and will be generally less likely to cause nuisance to the immediate neighbours.

The proposal is considered to be in accordance with Policy CO2.

**Visual Amenity**

In terms of the proposed extended car park, it is considered that the small extension into the grass verge, with appropriate boundary planting would not have an unacceptable landscape impact and would also have the benefit of screening the rear of the site from wider public views, and ensure that the old access from the A172 onto the site cannot be used which ensure all parking spaces would remain available.

In relation to the storage containers, whilst these are not normally considered to be an acceptable form of development, in this case it is proposed that they are enclosed in a timber clad pitched roof building. The retention of the steel containers within this building will ensure maximum security, but from the exterior will have the appearance of a timber building. It is considered that this would not have a detrimental impact on amenity and would be an acceptable form of development in accordance with Strategic Policy C.

The proposed lean-to extension at the side of the building would be modest in scale and subservient in appearance to the host building and again would not have a detrimental impact on the character of the locality or neighbouring amenity.

**Use as Primarily Café with Associated Bike Hire/Repair Facility**

Comments have been received with regard to the level of usage and that this is likely to cause noise and disturbance to neighbours. Officers do not consider that the amendments to the internal layout to use a larger proportion of the internal space for café seating rather than bike sales would result in a significant increase in activity from the original approval for bike

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**Main Issues continued**

shop and café. It is not considered that activity levels would be such as to cause a loss of residential amenity and no objections have been received from Environmental Health.

**Community and Tourist Facility**

A number of letters of support have been received, as well as support from the Parish Council, on the basis that this café and shop is providing an essential community facility which is well used by villagers as well as tourists, specifically those cycling in the area.

The proposal is therefore considered to be in accordance with Policy UE1 and BL8 of the Local Plan.

**Conclusion**

In view of the above is considered that the increase in car parking will improve the current issues regarding parking on the highway and the use, and the alterations proposed would not result in an unacceptable visual impact or increase in activity levels that would have a detrimental impact on neighbouring amenity and would therefore be in accordance with adopted Policies set out above. Consequently, approval is recommended.

**Pre-commencement Conditions**

Condition 14 is a pre-commencement condition and has been agreed in writing with the applicant/agent.

**Contribution to Management Plan Objectives**

The proposed development will contribute to the aims of a number of National Park Management Plan objectives, including policy B1, increasing visitor spend and B4, improving the variety and quality of recreation facilities in the National Park.

**Explanation of how the Authority has Worked Positively with the Applicant/Agent**

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and confirmed to the applicant/agent that the development is likely to improve the economic, social and environmental conditions of the area.