

## **Committee Report**

**Committee Date:** 18.7.18

**Item No:** 2

**Reference:** 0214/17

**Case Officer:** Jack Wilkinson

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**Description of Development:** Continued use of premises as mixed use retail shop with furniture restoration and repair workshop and associated packaging of furniture for delivery of instore and internet sales (sui generis)

**Location:** 73, High Street, Debenham

**Parish:** Debenham

**Ward:** Debenham

**Ward Member/s:** Cllr Kathie Guthrie

**Site Area:** 570 sqm

**Conservation Area:** Yes

**Listed Building:** No

**Received:** 18.1.17

**Expiry Date:** 01.8.18

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**Application Type:** FUL - Full Planning Application

**Development Type:** Commercial

**Environmental Impact Assessment:** Environmental Assessment Not Required

**Applicant:** Mr Collins

**Agent:** Portland Planning

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### **DOCUMENTS SUBMITTED FOR CONSIDERATION**

List of applications supporting documents and reports:

Application forms – received 18.1.17

Planning Statement – received 28.3.17

Supplementary Planning Statement – received 27.3.17

Block Plan/Site Plan – received 28.9.17

Site Location Plan – received 28.9.17

Drawing no. (30)001a – West & East Elevations – received 28.9.17

Drawing no. (30)002c – North & South Elevations – received 8.2.17

Drawing no. (30)001j – Proposed Ground Floor layout – received 28.9.17

The application, plans and documents submitted by the Applicant can be viewed online at the Mid Suffolk website via the following link:

<http://www.midsuffolk.gov.uk/planning/development-management/application-search-and-comment/search-for-applications/> . Alternatively, a copy is available to view at the Mid Suffolk Council Offices.

## **SUMMARY**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The officers recommend approval of this application.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to committee for the following reason/s:

- A Member of the Council has requested that the application is determined by the appropriate Committee and the request has been made in accordance with the Planning Charter or such other protocol/procedure adopted by the Council. The Member's reasoning is included in the agenda bundle.

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## **PART TWO – APPLICATION BACKGROUND**

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This section details history, policies, advice provided, other legalisation and events that forms the background in terms of both material considerations and procedural background.

### **History**

1018/97 – Replacement of shop front for Antique Showroom	– Granted 23.9.75
W/853/1 – Extension of existing car showroom	– Granted 23.8.65
W/853/2 – Install underground spirit storage tank	– Granted 27.10.65
W/853 – Install an additional petrol pump and tank	– Granted 24.9.49

### **Details of Previous Committee Resolutions**

2. None

### **Details of Member site visit**

3. None

### **Details of any Pre Application Advice**

4. Pre-application advice was given by a planning officer in conjunction with the Enforcement Officer with regard to the proposed development.
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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **Consultations**

#### 5. Summary of Consultations

##### **Debenham Parish Council**

- the Parish Council would like to recommend the refusal of this planning application. The Parish council would like to ask the Planning Department to look into this application further so that the issues raised by neighbouring residents and members can be duly considered before a final decision is made.
- The applicant has an industrial type unit at the Bloomfields site and it would appear that it would make more sense for this location to be used for the purposes listed on this application, rather than the High Street in Debenham.
- The type of industry being proposed for the site is not appropriate for a conservation area; the chemicals and other materials used are toxic and carcinogenic in nature; the activities being proposed and materials used represent a high fire risk. There is no extraction on the site and the resulting vapours will end up affecting the neighbouring properties; Traffic flow and parking are already challenging on the High Street and such a commercial venture would only exacerbate the problem. The development is also near a water course and any accidental spillages would contaminate it and affect it all the way to Woodbridge.

##### **SCC Highways**

- It is anticipated that there will be no material difference in vehicle movements should permission be granted both in vehicular volume and / or type.
- Furthermore, there have been zero recorded accidents at that location in the previous five years.
- I note (through objection) that our response to the application DC/17/05702 at Cherry Tree Inn, Debenham was raised in relation to the application for 73 High Street. The Cherry Tree Inn site is immediately adjacent to a road junction and of a different scale and character of development which in our opinion and experience may, if suitable parking is not provided within the site, lead to inappropriate parking on the public highway creating a hazard to road users. On this occasion I can only restate our view that this is a retrospective application for a site that has been operating for a number of years in its current form and that from the information we have available this use has not created a severe impact on the highway i.e. no recorded crashes or complaints.
- Additionally, any vehicles causing an obstruction should be reported to the Suffolk Constabulary as that is a criminal offence.
- The amendments made to the application do not alter SCC's position and therefore still do not wish to raise an objection.
- I have reviewed this case again and can find no reason to amend our previous response.

##### **Environmental Health (other issues)**

- I understand that this application seeks to change the use from a purely A1 retail site to a mix of A1 and furniture restoration and packing.

- The site is in close proximity to residential dwellings and therefore given the specifics of the use, I could only support this application if the following conditions are added to any permission, for reasons of protecting residential amenity:

1. That any permission granted be a personal permission and limited specifically to the activities stated in the planning statement.

2. No furniture repair, restoration or other related work (including construction of packaging materials) shall take place outside, except for loading/unloading of deliveries.

3. All doors and windows to be kept shut at all times when restoration work is going on (as outlined in Paragraphs 4.4 and 4.6 of the planning statement accompanying the application).

4. Hours of operation (including vehicle movements) shall be limited to 08.00 – 18.00 hours, with no work carried out on Sundays and Bank Holidays.

5. No Heavy Goods Vehicle (HGV) delivery / collection shall be made to / from the site at any time.

Additional comments received:

- Thank you for your re-consultation on the above application. I have now had sight of the document 'supplementary planning statement, 73 High Street, Debenham'.
- In addition to the conditions suggested in my memo of 08.03.2017, I would make the following comments:
- A summary of vehicle movements associated with the use is given. It is a subjective judgement as to whether this is commensurate with an A1 use/comparable with previous uses. You may wish to consider limiting the vehicle movements under control of the applicant (e.g. movements in the applicant's van, courier deliveries/collections and delivery of chipboard crate construction materials) by means of condition to both frequencies and timings as given in the application – also specifying that no HGV deliveries/collections shall be made. The delivery of packaging materials is the delivery most likely to result in loss of amenity due to the size of vehicle used and the use of the loading arm (an activity that I would suggest is not commensurate with A1) – although I understand this is limited to once every 2 months. You may wish to explore with the applicant where these items could instead be delivered to the warehouse.
- I would suggest that a condition be attached to the effect that all construction of packaging materials and packing of items shall take place wholly inside the building with doors and windows shut.
- Finally, would suggest that conditions be attached to any permission to the effect that hours of deliveries/loading and unloading shall be limited to 08.00 – 18.00 hours Monday – Saturday with no such activity to take place on Sundays or bank holidays. I would also recommend that a condition be attached to any permission limiting the businesses opening hours to the public to 08.00 -18.00 Monday – Saturday and 10.00 – 16.00hrs Sundays.

#### **Land Contamination Officer**

- In terms of land contamination, we have no objections to this application.

#### **Heritage Officer**

- The Heritage Team consider that the proposal would cause negligible harm to the

Debenham Conservation Area as the scheme to change the use of 73, High Street, Debenham would not result in any external alterations to the existing building, although the change of use may result in an increase in associated traffic typical of a more industrial use, which may have an impact on the Conservation Area.

## **Representations**

5 objections have been received in total. The points raised are summarised as follows:

- The change of use began in early 2015, the antique shop closed in 2014 and retailing to the public then ceased
- No showroom since 2015
- Site has been used for Class B industrial use since 2015
- Increase in traffic noise and disturbance
- Council's enforcement officer visited site in October 2016 and activity on the site reduced after visit
- Site has inadequate parking for the use
- Since 2015 business developed into an internet business, goods distribution centre and workshop to market antique furniture
- The premises house activities required to market, distribute antiques that are sourced in UK & Scandinavia and sold worldwide on the internet
- Activity supported by construction of shipping crates, restoring antiques and manufacturing reproduction furniture
- Stock is warehoused in premises on the Debenham Industrial Estate and shipped to 73, High Street to be processed, photographed, restored and shipped
- Business generates volumes of commercial traffic including HGVs
- Vehicles are unloaded alongside property close to neighbouring windows and doors creating noise and disturbance
- Inadequate space for the loading and unloading of vehicles
- Workshop uses solvents and power tools which generates wood dust
- Inadequate ventilation and extraction facilities
- Premises on Debenham Industrial Estate would be more appropriate for the use where it has been relocated from
- A local antique shop for local foot customers is appropriate in High Street, but applicant has abandoned local market in favour of a business which relies on imports and exports to sustain it economically, to the detriment of the local community
- The proposal is incorrectly described as 'continued use', a primary retail use is included where no primary retail use exists, it omits the primary manufacturing use, the manufacture of crates and furniture, and omits the primary distribution use

2 supporting comments have also been received, presented as follows:

- The site is operating as a retail premises, and that transaction was straightforward
- The service is supported locally
- The applicant is a decent local business, offering a high quality service
- The business provides jobs, which would be jeopardised if refusal were issued

## **The Site and Surroundings**

8. This application relates to a former car showroom/petrol filling garage premises located at the southern end of the High Street, within the Debenham Conservation Area. The premises have been used as a retail shop selling antiques and antique furniture since the mid-1990's. There are residential properties adjacent to the site to the north and south, and also opposite where dwellings were constructed on a former car servicing garage site. Additionally, opposite the site is a dental practice.

## **The Proposal**

9. Planning permission is sought for the continued use of premises as mixed use retail shop with furniture restoration and repair workshop and associated packaging of furniture for delivery of instore and internet sales (sui generis). It is 'sui generis' as a combination of Class A1 (retail) and Class B1 (light industrial). Due to a growth in the use of the internet for sales the use of the premises has changed from a purely retail use with customers visiting the premises to purchase items, to the current mixed use including the repair and restoration of furniture, with the packaging and sale of items which are sold over the internet as well as items sold to customers visiting the store. Items are advertised online using photographs taken on site, items are purchased online but also items are available to be viewed in the premise in the showroom and purchased on site.

The applicant has supported the application with a statement which states that items of furniture are delivered, usually by HGV, to a warehouse on the nearby the Debenham Industrial Estate where they are stored. The applicant then delivers individual or small batches of items to the application site in his 1.5 tonne, light goods van. This generates up to 3 trips by the van to and from the warehouse per day. At the High Street premises, the furniture is restored/repaired by the two specialist craftsmen employed at the shop, photographed for the website site and displayed at the shop. Customers visit the shop, often having seen the item in which they are interested first on the website, to view the furniture in person and purchase it. Other customers purchase without visiting the shop and rely on the photographs on the website.

Being large items of furniture, even customers who visit the premises to purchase are rarely able to take their purchases away with them. The applicant makes packaging crates from chipboard and cardboard and dispatches packaged items by haulage company DHL, twice per week, between 1400 - 1700. The chipboard is cut using a hand operated plunge saw which is the only power tool operated on site.

The applicant rents four car parking spaces on the nearby industrial estate for staff to park without adversely affecting neighbours or using parking space at the High Street premises. Deliveries of sheets of chipboard for crate construction occur once every 2 months. This timber has been delivered by Jewsons using a 7.5 tonne truck with loading arm, to the side delivery doors. However, in light of concerns raised by the neighbouring resident with regard to the use of this vehicle, the applicant has undertaken to only deliver the timber using a van which is classified as a Light Goods Vehicle (LGV), which does not use a loading arm. Deliveries are not made before 0800 or after 1800. The applicant advises that the current use generates the following vehicle movements:

DHL visit twice per week between 1400 - 1700 fixed hours; Jewsons visit a maximum of once every 2 months; Customers to view – up to 3 per day; Applicant's van moved 3 times a day; Occasional deliveries of polishes, etc, office supplies once per week.

In addition, there are the following; Royal Mail normal postal service every day 0900 - 1000. Post van parks on application site and delivers to nearby houses and businesses owing to restricted parking in area. The applicant also alleges that owing to the availability of parking

at the application site and the lack of alternative parking places nearby, delivery vehicles for and visitors to neighbouring premises often park without the applicant's consent on the site.

## **Policy Issues**

### **National Planning Policy Framework (NPPF)**

10. At the heart of the NPPF is a presumption in favour of sustainable development. Sustainable development is based on an economic, social and environmental role.

Section 1 of the NPPF relates to building a strong, competitive economy. It provides that 'the planning system does everything that it can to support sustainable economic growth'. Paragraph 19 states that 'Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system'. Furthermore Section 3 of the NPPF relates to supporting a prosperous rural economy. It states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, supporting growth and expansion of all types of business and enterprise in rural areas.

### **Core Strategy**

11. Debenham is classified as a Key Service Centre in the Mid Suffolk Core Strategy (2008). Policy CS5 provides that "All development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area".

Policy CS12 of the Mid Suffolk Core Strategy DPD (2012) on '*Retail Provision*' states "*support will be given to proposals and activities that protect, provide for, retain or enhance town centre community and cultural assets.*"

The Core Strategy Focused Review (CSFR) was adopted by Full Council on 20 December 2012 and should be read as a supplement to Mid Suffolk's adopted Core Strategy (2008). Policy FC 1 - Presumption in favour of sustainable development refers to the National Planning Policy Framework (NPPF) objectives and Policy FC 1.1 - Mid Suffolk approach to delivering Sustainable Development that provides 'development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan. Proposals for development must conserve and enhance the local character of the different parts of the district. They should demonstrate how the proposal addresses the context and key issues of the district and contributes to meeting the objectives and the policies of the Mid Suffolk Core Strategy and other relevant documents.'

### **Local Plan**

12. The site is located within the defined Housing Settlement Boundary and Conservation Area for Debenham, but outside of the defined Town Centre. Mid Suffolk Local Plan Policy E6 also seeks to retain individual industrial and commercial premises that provide local employment opportunities. Policy E9 relates to the location of new businesses within Class B1 of the Use Classes Order, within Settlement boundaries will be permitted providing that there is no demonstrable harm to road safety, residential amenity, or the environment generally. Conditions will be imposed to ensure that the use of the site will not have a significantly adverse impact on nearby residential amenity.

## **Main Considerations**

13. From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

14. The following are identified as the main considerations in assessing this application

- Principle of Development
- Sustainability
- Highway and Access Issues
- Design and layout
- Amenity impact

## **The Principle Of Development**

15. The site is located at the southern end of the High Street, Debenham which comprises a mix of residential and commercial properties. The site has previously operated as a commercial car garage with a showroom for car sales and petrol sales on the forecourt. This use had operated from the 1940s. Following the closure of the car showroom and petrol sales the site became a retail shop for sale of antiques in the 1990's, therefore there has been an ongoing commercial use of the premises over many years.

Representations have been received on behalf of the neighbouring resident concerning the description of the development, particularly with regard to it being for the 'continued' use. This is on the basis that it is the opinion of the neighbour that the use being applied for is not actually taking place at present, alleging that it has ceased since a visit from the authority's Enforcement Officer in October 2016. In response to this your officers have visited the premises in the context of the current application and are satisfied that the business is currently operating, and on the basis of financial accounts which have been shown to officers the use has been on-going since last October and is continuing. The description of the development has been agreed with the applicant that it is the mixed use which is being applied for, comprising the elements of the retail sale antique furniture, the restoration and repair of antique furniture, and the associated incidental use of packaging of furniture for delivery of items sold both online and instore. The packaging can comprise the packing into crates which are put together onsite from sheets of chip board which are cut to size.

There is no 'distribution' use in the sense of a Class B8 Storage and Distribution use occurring at the premises where premises are used for storage or as a distribution centre. The use includes the 'delivery' of items of furniture which are purchased by customers, this is not considered to be a storage and 'distribution' use.

## **Sustainability Assessment Of Proposal**

16. The NPPF and Local Plan support sustainable economic growth and the provision of employment sites in suitable locations. In this instance the development provides additional employment in the area for up to five people. The gains in economic activity at the site are beneficial to the local economy and this is considered to be of significant bonus to the economy of Debenham. Considering the proposed development on its own merits, it is considered that the development creates economic development of benefit to Debenham

and wider district which is supported by local and national policy.

### **Site Access, Parking And Highway Safety Considerations**

17. The premises have an existing forecourt fronting onto the High Street which is available for the parking of vehicles, along with an area to the side which is enclosed by gates but is available during trading hours for the parking and manoeuvring of vehicles. The premises has previously operated as a car showroom and petrol filling station so there is a long history of commercial vehicles visiting and parking at the premises for the purposes of loading. The shop use which superseded the car showroom use has meant that customer vehicles have visited the site on a regular basis in the past. It is arguable whether the existing use generates a larger number or different type of vehicle movements in comparison with the historic uses.

The current use generates vehicle movements which have been identified by the applicant being vans operated by the DHL haulage company who visit twice a week between 1400-1700, Jewsons builders merchant who visit a maximum of once every two months to deliver sheets of chipboard, customers to view up to 3 times per day, the applicant's vehicle which is moved approximately three times a day, other occasional deliveries of items such as polishes or office supplies, and customer vehicles. The applicant has submitted a plan which indicates the provision of vehicle parking spaces on the frontage of the premises. Concerns have been raised on behalf of the neighbouring resident with regard to the proposed spaces, however, following a consultation, the Highway Authority has raised no objections to the proposal. They are satisfied with the parking and manoeuvring space available at the premises.

Concerns raised by the neighbouring residents with regard to parking and manoeuvring of vehicles associated with the use are noted. It is acknowledged that these concerns may relate to the nature of the use operating prior to the visit of the Enforcement Officer in October 2016. Since that time the applicant has modified the use and controlled the vehicle movements. In connection with the application the applicant's agent has submitted a supporting planning statement which is specific with regard to the vehicle movements associated with the use and suggested that a condition can be applied to restrict the hours of deliveries/loading and unloading to be limited to 08.00 – 18.00 hours Monday – Saturday with no such activity to take place on Sundays or Bank Holidays, and this is confirmed by the Environmental Health Officer as being appropriate. The application is supported by a plan which indicates the provision of three car parking spaces on the forecourt of the premises.

One lorry movement associated with the proposal which has caused particular concern to the neighbouring property is the delivery of sheets of chipboard by Jewsons for the construction of packaging crates. The Environmental Health Officer has expressed the view that this specific operation is the delivery most likely to result in loss of amenity due to the size of vehicle used and the use of the loading arm. It is suggested by the EHO that this activity may not be commensurate with Class A1. Having regard to this observation, it is considered that the delivery of goods could occur at present under the A1 use and that the potential number and type of vehicle movement associated with the A1 use would not currently be restricted. However, in response to the concerns raised with respect to the specific operation of the delivery of sheets of chipboard by the Jewson lorry, the applicant has agreed to cease this form of delivery. Delivery of chipboard will now only occur using a Light Goods Vehicle in order to minimise disruption to the neighbour, and deliveries occur once every two months which is considered to be an acceptable level of frequency.

Furthermore, the 'Planning Statement – additional comments' submitted 13 July 2017

outlines that the business is using less and less air freight, which requires crates, to shipping, which doesn't. The need for timber crating is becoming less and less, which reduces the need for timber deliveries to site, by the applicant in his own van. Nonetheless, this aspect is considered maximally.

Concerns have been raised, and some photographic evidence submitted, by neighbouring residents concerning the unauthorised parking of commercial vehicles on the High Street causing obstruction. The applicant advises that this is not condoned by him and the Highway Authority advise that any vehicles causing an obstruction should be reported to the Suffolk Constabulary as it is a criminal offence. This is not a planning matter.

### **Design And Layout**

18. The application is supported by an internal layout plan which indicates the arrangement of the uses which are occurring. This indicates the areas allocated for use as showroom, furniture restoration, photography, packaging, offices and kitchen/wc. Concerns have been raised on behalf of the neighbouring residents with regard to the fact that the unit is not laid out as a retail premises in a conventional manner with a shop window display. This point is acknowledged in that there is no conventional shop window display of antiques for sale; however, it is the case that furniture and other antique items are displayed within the showroom, which is part of the overall floor layout which includes the workshop use, photography, packaging, and office uses. The operation of an A1 retail use does not require the use of a shop window display.

### **Amenity Impact**

19. As a result of representations made by neighbouring residents the use of the premises was investigated by Enforcement Officers in October 2016. This was particularly due to concerns raised about noise and vehicle movements associated with the use of the premises as an industrial workshop. The Enforcement Officer made an unannounced visit to the premises and witnessed the use of the furniture restoration use and manufacture of packaging materials in association with the retail sale of antiques. In addition, the concerns were investigated by the Environmental Health Officer. The Enforcement Officer concluded that the nature of the use which was operating on the site was more than 'ancillary' to the established retail shop and concluded that a planning application was required for the mixed use. The Environmental Health Officer investigated the noise complaint and were unable to substantiate a noise issue originating at the premises and closed the complaint with the agreement of the complainant, and no further action was taken.

The initial concerns raised by the neighbour concerning loss of amenity related to the noise from the premises resulting from power tools being used on a daily basis with doors on the side of the premises left open, disruption resulting from vehicle movements, parking of vehicles and delivery of goods. As a result of the visit by the Enforcement Officer and the Environmental Health Officer the applicant took measures to ensure that the doors were kept closed and the vehicle movements minimised. As a consequence, the neighbour expressed the opinion that the use of the premises had ceased. In fact, the use was continuing. Nevertheless, in order to mitigate against any potential impact of the use on the amenity of the neighbour it would be appropriate to apply conditions as recommended by the Environmental Health Officer relating to the hours of use, use of power tools with doors closed, vehicle movements, and no outside work. The use of such conditions to mitigate impact on residential amenity is supported by the agent acting for the neighbour.

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## **PART FOUR – CONCLUSION**

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### **Planning Balance**

20. The site is located within the built environment of Debenham and has a long established history of commercial use. The continued use of the site as a mixed use employment site involving the retailing of antique furniture with a furniture repair and restoration workshop is considered to be an acceptable use of the site subject to conditions which control the use to minimise impact of the use on neighbouring residential properties. Planning policy does not prevent the use of an established commercial premise in a residential area for an alternative employment use subject to the use being controlled by way of appropriate conditions which mitigate any potential adverse impact upon residential amenity.

On balance, taking into account the NPPF that states 'significant weight should be placed on the need to support economic growth through the planning system', the use is considered to be acceptable. When taken as a whole and as a matter of planning judgement, the proposal is considered to adhere to the development plan and NPPF and therefore can be considered sustainable development. There is a presumption in favour of sustainable development. The application is therefore recommended for approval.

### **RECOMMENDATION**

That authority be delegated to Professional Lead - Growth & Sustainable Planning to grant outline planning permission subject to the following conditions:

1. Time limit
2. Approved plans
3. No loading/unloading of deliveries or items for dispatch shall be made outside the hours of 0800 - 1800 Monday - Saturday. None on Sundays/Bank Holidays
4. The premises shall not be open to the public outside the hours of 0800 - 1800 Monday - Saturday and 1000 - 1600 Sundays/Bank Holidays
5. No furniture restoration or other related work shall take place outside, except for loading/unloading of deliveries.
6. All doors and windows to be kept shut at all times when restoration work is going on (as outlined in Paragraphs 4.4 and 4.6 of the planning statement accompanying the application).
7. The use of power tools for the construction of packing crates and furniture restoration shall only take place inside the building and doors and windows shall be kept closed for the duration of the use of power tools inside the building.
8. Any construction of packing material, and the packing of items shall take place wholly within the premises and all doors and windows shall be kept closed.
9. No HGV vehicle (more than 7.5 tonnes) movements within the control of the applicant shall take place at the premises.
10. Only items owned by the applicant for sale shall be photographed and packaged on the site.