

10 MC/14/2830

Date Received: 22 September, 2014

Location: Sherlodge Garage, 600 Lordswood Lane, Lordswood, Chatham, ME5 8NJ

Proposal: Construction of a canopy to facilitate part change of use to provide a hand car wash and valeting business (sui-generis)

Applicant: Mr V Fibich

Agent: Mr A Millard D.O Facilities 348 Lordswood Lane Chatham Kent ME5 8JT

Ward Walderslade

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 4 February, 2015.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawings 19416 C (rear elevation of crew shelter only) & 19416 D received 19 September 2014 and 19416 A/2 & 19416 B/2 received 9 December 2014.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The washing and valeting of vehicles shall only take place within the new covered washing and valeting area hereby approved and shall not take place anywhere else on the site.

Reason: In order to limit the spread of the use over the site in the interests of the amenities of neighbours and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 3 Pressure washers shall not be used at any time on site for the washing of cars.

Reason: In the interests of the amenities of neighbours and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 4 Details of the enclosure for the vacuum cleaners on the site shall be submitted to the Local Planning Authority for its written approval within two

months of the date of this planning permission. The noise rating level (LAr,Tr) associated with the enclosed vacuum cleaners shall be at least 10dB below the background noise level (LA90,T) and the noise levels shall be determined at the nearest noise sensitive receptors. All measurements shall be defined and derived in accordance with BS4142: 1997. The approved enclosure details shall be fully implemented on site within one month of their approval and shall be maintained as such thereafter. Only vacuum cleaners enclosed in the approved manner shall be used on the site in connection with the cleaning of cars/vehicles.

Reason: In the interests of the amenities of neighbours and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 5 The hand car wash and valeting business use hereby permitted shall only operate between the hours of 0900 to 1800 Mondays to Saturdays inclusive and 0900 to 1600 on Sundays and Public Holidays.

Reason: In the interests of the amenities of neighbours and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 6 There shall be no infiltration of surface water from the site to ground, with all site surfacing maintained and any fixtures for structures sealed to ensure that there are no breaks in the competent surface.

Reason: In order to prevent pollution to the public water supply and the underlying principal aquifer with regard to Policies BNE23 and CF12 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

### **Proposal**

This is a retrospective application for the operation of a hand car wash and valeting service within the Sherlodge Garage site, a petrol station with associated shop and at times car sales. The originally submitted plans showed the main washing and valeting area in the western corner of the site, by the Huckleberry Close frontage and the side of the flats to the southwest. This included the provision of a roof canopy enclosed on the south and west sides constructed of clear polycarbonate sheeting on a timber supporting structure. However the plans have subsequently been amended, with the covered washing and valeting area now to be positioned adjacent to the rear of the shop building. A small canopy would also be provided on the Huckleberry Close side of the shop in order to provide a rest and waiting area for staff and customers.

The submitted details say that the power washing system fed by portable water tanks would be replaced by a simple garden hose type hand held sprayer, fed directly from the garage's water mains. In addition the two vacuum cleaners to be

used in the valeting area will operate from muffled containers to help eliminate excessive noise. It is stated that at present the number of vehicles cleaned each day varies from 10 to 30, usually at the higher levels at the weekends. The opening hours are stated on site to be 0900 to 1800 Monday to Saturday and 0900 to 1600 on Sunday.

### **Relevant Planning History**

MC/14/0554	Siting of a parcel locker (retrospective) Approved 17 April 2014
93/131	Single storey rear extension to store Approved 19 April 1993
89/835	Conversion of workshop to car showroom, alterations and extension to existing shop, etc Approved 12 September 1989
83/525	Internal alterations to existing building, erection of forecourt canopy and installation of underground storage tank Approved 30 August 1983
82/315	Use of site for used car sales Approved 17 June 1982
77/112	Forecourt Canopy Approved 22 March 1977
1/73/107	Temporary wooden office and site for second hand car sales Refused 23 March 1973
1/63/155	Petrol Service Station Approved 27 August 1963

### **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. The Environment Agency has also been consulted.

The **Environment Agency** (EA) initially objected to the application because the level of risk posed by the development was unacceptable and the application failed to provide assurance that the risks of pollution are understood. Further information was submitted to address this but the drainage and surfacing competency were still unclear. Yet more information was submitted and the EA have now confirmed that if there is no infiltration of surface water to ground then they have no objection. All site surfacing should be adequately maintained and any fixtures for structures should be sealed to ensure that they do not form breaks in the competent surface.

**Six representations of objection including one from Huckleberry Residents Society Limited plus one additional letter confirming that the amendments have not overcome their concerns** have been received, in summary on the following grounds:

- Car washing has already taken place here for several months, frequently with 6 or more workers, with various machines being used, this has already caused nuisance from noise, disturbance (shouting, frolicking, doors, radios, vehicles and vacuum cleaners) and dampness;
- Industrial grade equipment is not suitable for a residential area;
- The pressure car washers have returned to the site, how can this be effectively prevented?;
- The garage building used to offer privacy and peace and quiet from the main road, now the car wash activity is on neighbours doorsteps;
- Impact restricts neighbours opening their windows;
- Encroachment into residential area, too close to neighbouring dwelling (separated by fence not wall);
- Light obstruction to access way;
- Obtrusive height of the canopy/partition;
- Neighbours and their cars get sprayed with water;
- Unsightly appearance and clutter, including signage, detracting from the appearance of the street;
- Polycarbonate will not stop noise, it readily transmits contact sound so sprayed water, rainfall and wind would be clearly audible and as the enclosure is open on most sides it would not be effective in reducing the emission of sound and moisture;
- Wind blown spray has already caused damp patches on Huckleberry Close flats;
- Not in keeping with its surroundings;
- Vehicles queuing adjacent to their garden, loud radio and engine noise/exhaust fumes;
- Sometimes there are 6 employees on site, not 2-3, and up to 100 vehicles a day, not 10-30;
- Increased traffic and footfall;
- Queuing traffic spills onto Lordswood Lane and obstructs access to the petrol filling area;
- Loss of on-street parking for residents as cars wait their turn;
- Employees don't wear safety equipment;
- Concern about the behaviour of car wash operators and employees;
- Previous application MC/12/2214 was turned down and many of the concerns remain at this new site;
- The amendments do not overcome the above concerns and the canopy would now be over the fuel filling/inspection covers allowing for the build up of petroleum vapours inside the canopy.

**One additional representation** raises concern only about the early start, particularly at weekends, cars arriving in droves with a lot of engine revving, shouting and littering while the cars are being washed.

**One additional representation** has no objection but highlights that most of the cleaners smoke and they would not want any danger with the petrol pumps a short distance away.

**Two representations of support** have been received, in summary on the following grounds:

- It is for the betterment of all concerned;
- The canopy will enhance the appearance of the site and in conjunction with other measures will reduce any spray/nuisance and provide protection for workers;
- The business brings trade into the area which can only be good for local shops.

**Councillor Adrian Gulvin** objects to the application on the following grounds:

- This is a retrospective application for a use which is causing considerable disturbance to local residents. The applicants previously operated in the car park of the Victoria Cross Public House, this use was refused by Medway Council, and this refusal was subsequently supported on appeal by the Planning Inspector.
- In its present location the operation is causing disturbance to a greater number of residents than it was in its previous location. It is very suspicious that the operators have now removed the pressure washing equipment from the site, I have no doubt that this equipment would return to the site should planning permission be granted, leaving the Council with continual enforcement issues. Even without the use of such equipment the residents are being subjected to constant shouting and disturbance from the operators.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 (the NPPF) and are considered to conform.

### **Planning Appraisal**

#### *Background*

The applicant previously operated a similar car wash operation at The Victoria Cross public house, 614 Lordswood Lane. A retrospective planning application for this use (MC/12/2214) was refused on three grounds which related to noise and disturbance, visual clutter and pollution. A subsequent appeal against this refusal was then dismissed, the Inspector finding that the noise was harmful to the living conditions of neighbours. However he did not agree that the operation was out of keeping with the character and appearance of the area and he also found that the risk of pollution could be dealt with by planning condition.

### *Principle*

There is no objection in principle to the provision of a car wash on this well-established petrol filling station site. The main issues are the visual impact and the effects on amenity and highway safety.

### *Street Scene and Design*

The site is a petrol filling station with a two storey building containing the shop with office above. At times car sales also take place within the site. The appearance is generally 'busy', with the open storage of gas bottles and refuse containers, etc.

Amended plans have repositioned the proposed car washing and valeting canopy adjacent to the rear of the two storey building on the site, rather than as a standalone feature at the western corner of the site. The canopy shelter for staff and customers would also be against the building. Although their appearance would be functional, polycarbonate sheets with timber supports, it is not considered that this would be visually harmful in this location/context. It is recognised that there is advertising and other paraphernalia associated with the car wash but the site is already in commercial use. In addition it is noted that at the appeal referred to above the Inspector did not agree with the Council's reason for refusal on visual grounds. He noted the large water tank, the various advertising signs and other paraphernalia associated with the car wash but did not find the operation as a whole to appear unduly cluttered or prominent in the streetscene. He found it to be unobtrusive compared to the current (petrol station) site and concluded that it was not out of keeping.

In summary the visual impact of the development on the current commercial site is considered acceptable including with regard to Policy BNE1 of the Local Plan.

### *Amenity Considerations*

The main amenity concern is the impact on the living conditions of local residents. This impact has been considered with regard to the findings at the appeal for a similar operation at The Victoria Cross public house nearby, MC12/2214. The Inspector dismissed this appeal on the basis that the noise was harmful to the living conditions of neighbours. He found that the noise caused by the use of the pressure washer (which would be clearly audible in the gardens of neighbours) would be very intrusive. In addition he found that the close proximity of the business to nearby dwellings meant that noise from general activities (such as car doors opening and closing, vehicles manoeuvring and the use of vacuum cleaners) would add to the intrusion of the pressure washers.

The impact of the use on the amenities of neighbours remains a very important consideration, however the current site circumstances are significantly different to those of this appeal. The current site is already a petrol filling station which by its very nature attracts a regular flow of traffic, with car doors opening and closing and vehicles manoeuvring. The site also contains a small convenience shop which customers may visit by car, parcel collection lockers and at times vehicle sales, with additional public parking to the rear of the Local Shopping Centre at Admirals Walk

across the road to the north.

Initially the application showed the main washing and valeting area in the western corner of the site by the boundary with the neighbouring flats which was considered unacceptable. However it has now been relocated adjacent to the rear of the shop building, with a small covered rest and waiting area for staff and customers nearby. This is a much better location, separating the enclosed washing and valeting area from these neighbours. A planning condition could be imposed to require that the washing and valeting only take place within this new covered area, preventing its spread over the site and back towards the boundaries with neighbours in order to aid in limiting its impact.

It is also important to consider the nature of the cleaning equipment used in connection with the business. At the Victoria Cross site, and also as part of the unauthorised use on the current site, pressure washers were/are used, as well as vacuum cleaners, the pressure washers being the main concern of the Inspector at the dismissed appeal. The current application includes the replacement of the power washing system by a simple garden hose type hand held sprayer, with the vacuum cleaners used in the valeting area to be operated from muffled containers in order to reduce their noise. Subject to planning conditions to limit use in accordance with these proposals, the use would no longer cause an unacceptable loss of amenity to neighbours. The hours of use of the facility would also need to be restricted by planning condition - the opening hours are stated on site to be 9am to 6pm Monday to Saturday and 9am to 4pm on Sunday which are considered acceptable.

It is recognised that the use will still increase activity on the site as a whole, the noise of car doors, radios and people being an integral part of this. However as the site already houses a number of activities, including the petrol filling station, on balance it is not considered that refusal on this basis can be justified.

With regard to the physical additions, due to their size and location they will not result in a loss of privacy, light or overbearing impact to neighbours. In summary the impact of the development on amenity is therefore considered acceptable, including with regard to Policy BNE2 of the Local Plan and to the NPPF (point 4 of paragraph 17).

### *Contamination*

The EA initially objected to the application on the grounds that the level of risk posed by the development was unacceptable and the application failed to provide assurance that the risks of pollution were understood and that the concerns could be adequately dealt with. However further information has now been submitted and the EA no longer object. The agent has confirmed that the working area of the garage is surfaced with an impervious concrete or asphalt finish, arranged so that drainage flows to the surface drainage gullies and channels. The surface water is then held in a holding tank and disposed of by a contracted authorised waste disposal company. There is no soakaway and no groundwater from the garage enters the public sewers or the aquifer, this existing system being periodically inspected by the EA. In these circumstances there is no objection to the development on contamination grounds, including with regard to Policies BNE23 and CF12 of the Local Plan and to the

advice in the NPPF (paragraph 120).

### *Highways and Parking*

The proposed use obviously attracts vehicles to the site, as does the main use of the site as a petrol filling station. Although at peak times this may cause queuing and potentially delay customers waiting for fuel, it is not considered that this causes any significant hazards to highway safety. There is therefore no objection on this ground, including with regard to Policies T1, T2 and T13 of the Local Plan.

### *Local Finance Considerations*

There are none considered relevant to this application.

## **Conclusions and Reasons for Approval**

In summary there is no objection in principle to the provision of a car wash and valeting service on the petrol station site. Subject to conditions it is considered that the impact on the amenities of neighbours can be limited to prevent harm. The visual impact of the use including the covered areas is considered acceptable for the location, as is the effect on parking and highway safety. The initial contamination concerns have been overcome by the provision of further information. Approval is therefore recommended including with regard to Policies BNE1, BNE2, BNE23, T1, T2, T13 and CF12 of the Local Plan and to the advice given in the NPPF.

The application would normally be determined under delegated powers but is being referred to Committee due to the extent of the representations received expressing a view contrary to the recommendation.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>