

SITE PLAN ATTACHED

**04. CAR PARK WILLIAM HUNTER WAY WILLIAM HUNTER WAY BRENTWOOD
ESSEX CM14 4SS**

**CHANGE OF USE OF PART OF THE WILLIAM HUNTER WAY CAR PARK
SITE TO CAR WASH AND THE RETENTION OF THE EXISTING FENCE,
CARWASH UMBRELLA AND PORTAKABIN (RETROSPECTIVE
PERMISSION)**

APPLICATION NO: 14/01326/FUL

WARD	Brentwood North	8/13 WEEK DATE	07.01.2015
PARISH		POLICIES	NPPF NPPG CP1 PC2 PC4 C14 T2 T6
CASE OFFICER	Ms Sukhi Dhadwar	01277 312604	
Drawing no(s) relevant to this decision:	SITE & BLOCK ; FENCE LOCATION ; GATEHOUSE ; BR0019 PLANNING STATMENT ; 200 REV 1 ; 200 ; 401 ; AQUAMARINA CHEMICAL REPORT ; MATERIAL INFORMATION ;		

1. Proposals

Permission is sought for the retention of a change of use of part of the William Hunter Way Car Park site to a commercial Car Wash business, and the retention of the existing fence, carwash canopy and portacabins.

Two boundary fences are proposed. The first is a wooden fence which runs along the internal boundary of the eastern perimeter of the site. It measures 2.4m high by 17.26m long. The second fence runs along the southern perimeter of the site. It is a marine plywood fence which measures 1.2m high by 27m long. It has been painted bright yellow and blue.

The drains are a maximum of 150mm wide by 83mm deep and run from the canopy and north of the portacabins and into an existing surface water drain.

The erection of two portacabins attached to each other measuring a total of 5.89m wide by 3m deep and 2.69m high to their flat roofs. They are constructed with an aluminium frame and have a grey coloured exterior.

The installation of a car wash 'umbrella' canopy held up by four galvanized steel support posts which have a maximum height of 3.1m. The canopy section measures 4.85m wide by 7.95m deep and has a height which does not extend beyond the height of the support posts. It is constructed of polyester and is proposed to have a silver/grey PVC coating. (The previous bright yellow umbrella was vandalised over the Christmas break).

2. Policy Context

The National Planning Practice Guidance (NPPG) provides additional guidance which supports the National Planning Policy Framework and provides users of the planning system with a specific body of advice and reference. All decisions upon planning applications must now have regard to NPPG as a material consideration.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgment in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Of particular relevance to this application are the following policies:

Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development ; in decision making, this means approving proposals that accord with the development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit or; specific policies within the Framework indicate that development should be restricted.

Chapter 1 requires that planning decisions should support sustainable economic growth.

Chapter 2 requires that the vitality of the Town Centre be promoted.

Chapter 7 makes clear that good design is a key aspect of sustainable development. Design policies should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area.

Chapter 11 requires that the planning system should contribute and enhance the natural and local environment.

Chapter 12 requires that development conserves heritage assets in manner appropriate to their significance.

Brentwood Replacement Local Plan

CP1 (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment

TC10 (William Hunter Way Car Park) This policy for this site is intended to retain the site for short stay car parking, and does not preclude the consideration of the car park for redevelopment, in whole or part, for a mixed use development

T2 (New Development and Highway Considerations) states that planning permission will not be granted for proposals where it will have an unacceptable detrimental impact on the transport system; and it fails to comply with adopted policies and highway requirements.

T6 (Public Car Parking Strategy) states that existing levels of short term car parking in the Borough's shopping areas will be maintained in order to retain their economic viability

PC2 (Hazardous Substances) Development must not give rise to an unacceptable risk to the health and safety of users of the site, neighbouring land or the environment.

PC4 (Noise) Noise generating development will not be permitted if it would have a significant unacceptable detrimental impact on the noise levels experienced by the occupiers of existing residential development

3. Relevant History

- 07/00978/FUL: Demolition Of Existing Structures, Erection Of New Buildings And Structures To Provide A Cinema (Use Class D2), Retail Stores (Use Class A1), Multi-Storey Car Park, 14 One-Bedroom Flats And Associated Car Parking Together With Service Areas, Highway Works, Hard And Soft Landscaping And Other Ancillary Works -Application Withdrawn
- 08/00729/FUL: Demolition Of Existing Structures, Erection Of New Buildings And Structures To Provide A Cinema (Use Class D1), Retail Stores (Use Class A1), Multi Storey Car Park, 14no. One Bedroom Flats And Associated Car Parking Together With Service Areas, Highways Works, Hard And Soft Landscaping And Other Ancillary Works. -Approve (Subject to Section 106)
- 13/00133/BBC: Change of use from disabled car park to a private car park to serve Barclays (ancillary A2) -Application Withdrawn
- 13/00784/EXT: Demolition of existing structures and erection of new buildings and structures to provide Cinema, retail stores (Class A1), multi storey car park, 14 no

one bedroom flats and associated car parking together with service areas, highways works, hard and soft landscaping and other ancillary works. (Extension of time to commence approved development 08/00729/FUL). -Approve (Subject to Section 106)

- 14/00567/FUL: Retention of fence, carwash umbrella and portacabin (retrospective) -Application Withdrawn

4. Neighbour Responses

Letters were sent to 50 occupants of adjoining and nearby properties within William Hunter Way, High Street and Western Road. Two site notices were also displayed. The consultation therefore ended on 26 December 2014. At the time of the writing of this report a total of 3 responses had been received from the public with regard to the application.

The issues raised can be summarised as follows:-

- There are two portacabins
- There is trade effluent from the wash which is going into the surface water drainage system. This is contrary to The Environmental Permitting Regulations (2010).
- No drainage details.
- No noise report.
- No environmental impact report.
- Noise pollution as a result of two pressure washers and a vacuum cleaner. This begins at 8 am (or earlier and ends at 7pm, seven days a week. We are unable to open our windows as a result of the noise and spray.
- Spray hits you when walking down the pathway to the car park.
- Puddles from the hoses accumulate on the pavement opposite Silkweaver Heights, which ice over. Somebody will slip and possibly sue the Council.
- Proposed hours of use are excessive.
- Proposal is a change of use.
- Use has no permission and is on Council property.
- Somebody will sue the council as a result of puddles from the hoses accumulating on the pavement opposite Silkweaver House.

5. Consultation Responses

- **Highway Authority:**

Comments made in relation to the previous application under reference 14/00567/FUL.

The Highway Authority would not wish to raise an objection to the above application, subject to the following condition being attached to any approval,

1. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be

submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

2. All fencing to be placed clear of the highway.

Reason: To ensure that any fencing does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Oral comments in relation to this application.
No objections

- **Environmental Health & Enforcement Manager:**

Further to the additional information provided and changes made by the applicant, Environmental Health have no comments to the above mentioned proposal of application

- **Historic Buildings And Conservation Officer:**

Thank you for consulting on application 14/01326/FUL which proposes the change of use of part of William Hunter Way Car Park for the Sui-Genesis car wash facility. William Hunter Way car park is located adjacent to the Brentwood Town Centre Conservation Area; it is this location within the backlands of the Conservation Area where there is a need for enhancement, therefore the principal of this facility on a permanent basis I raise objection too as it neither preserves or enhances the Conservation Area.

Should permission be granted I advise any signage and associated elements for the facility are minimal; the colour for the canopy should be more discreet given the context and proximity to the Conservation Area.

- **Assets Manager:**

At the time of writing this report no comments had been received,

- **Head Of Street Scene:**

Comments made in relation to the previous application under reference 14/00567/FUL.

With regards to the questions:

1. It takes up 10 spaces, but these are paid for in the lease agreement with the company, as are all car parking spaces used by their customers.
2. Based on our user figures usage in WHW has increased, along with usage in all car parks in the Town, which I feel is evidence that shoppers have not been deterred.

Hope this helps, but if you any further information let me know.

- **Environment Agency:**

Comments made in relation to the previous application under reference 14/00567/FUL.

We consider the proposal to be of low environmental risk, therefore we have no objection. However, please see our detailed comments below:-

Vehicle washing

The National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution.

In order to protect the water environment from potential pollution arising from this proposal, and preventing the need for future prosecution from the Environment Agency, the following good practice is advised:-

Vehicle wash areas

Drainage from hardstanding areas that have the potential to be contaminated by fuels, chemicals or other polluting material must be connected to the foul sewer. The Environmental Permitting Regulations (2010) make it an offence to cause or knowingly permit any discharge that will result in the input of pollutants to ground or surface waters.

Car wash liquid waste is classed as trade effluent. All cleaning and washing operations should be carried out in designated areas isolated from the surface water system and draining to the foul sewer (with the approval of the sewerage undertaker). The area should be clearly marked and a kerb surround is recommended.

Before discharging to a sewer you must always get a trade effluent consent or enter into a trade effluent agreement with your water and sewerage company or authority. If you are not able to discharge effluent to the foul sewer it will be classed as waste and you must then comply with your duty of care responsibilities. More information regarding the discharge of trade effluent can be found at www.netregs.gov.uk and <http://publications.environment-agency.gov.uk/pdf/PMHO0307BMDX-e-e.pdf>

Email received 21/1/15

I can confirm that you will have to speak to Thames Water Utilities Ltd for approval of any discharges to their sewers; both foul and surface water. You will only need our approval if you make a discharge to ground (by means of a soakaway or borehole) or directly to a watercourse, which is not the case in this situation. I would be surprised if Thames Water would agree to the discharge of vehicle wash waters to the surface water system due to their potential to pollute the rivers and streams to which they will ultimately flow. Our advice would be to seek a connection to the foul water sewer. There may be some situations where hand car washing, using minimal quantities of water and detergents may be permitted, provided that they dispose of their used water away from surface water drains. The use of pressure washers, using high volumes of water and detergents, is discouraged. If a fixed installation is likely, they should consider a recirculation system, connected to the foul water sewer.

6. Summary of Issues

Background

On 26 February 2014 the Community Services Committee gave approval for the applicant to obtain a rolling 3 month renewable licence for William Hunter Way car park for use of the south western area to be used as a car wash. This licence was to last until such time that a new development partner was found for the site.

The applicant then carried out the operational works in order to facilitate the change of use. These works resulted in an enforcement complaint being made to the use and structures.

Planning application reference 14/00567/FUL was submitted for operational development on the land including the stationing of portacabins and canopies. During the assessment of that application, officers considered that a material change of use had occurred; complaints relating to noise from the use of power hoses and vacuum machines were also received and investigated by the Council's Environmental Health officer.

The applicant was advised of these issues and subsequently withdrew the application before formal determination.

Current Proposal:

The key considerations for this application are :

The impact the proposal will have on the character and appearance of the application site, the adjoining Brentwood Town Centre Conservation Area and wider surrounding area.

The impact of the proposal on the Environment.

The impact of the proposal will have on the living conditions of neighbouring residential properties.

The impact of the proposal on highway safety.

Site and surrounding area

The proposal is located on the northern side of William Hunter Way Car Park. This car park is owned by the Council. There are two vehicular entrances and exits to the site. The application site is situated in the south western corner of this car park, is irregularly shaped and covers an area of 615 sqm. This area is equivalent to 15 car parking spaces and turning circle area. It shares the south westerly entrance/ exit route with the main car park.

The boundary of the Brentwood Town Centre ends at the rear boundary of shops facing the High Street.

The character of this area is mixed, as this road is predominately used as a service link to the backs of the existing shops facing the High Street. However there are residential properties to the west and south of the site and space for car parking to its east and north.

Principle

The site is within the Brentwood Town Centre and adjacent to the Conservation Area. Within the Brentwood Replacement Local Plan (BRLP) it is designated for use as a car park until such time that a proposal comes forward for the redevelopment of the site for a mixed use development, in line with the requirements of policy TC10 (Site of the William Hunter Way Car Park) of the BRLP.

William Hunter Way comprises of 379 car parking spaces. Policy T6 of the Local Plan requires that existing levels of short term car parking in the shopping areas be maintained.

The development has resulted in the loss of 4% of this total. The Car Parking Manager considers this as acceptable as the site is only full to capacity 3 time a year (near Christmas) therefore demand for parking in this location will not normally outstrip the supply as a result of this application.

Furthermore some of the clients of the car wash would be joint trippers, i.e. they may be using the car park anyway to access the town centre and may wish to also get their car washed. It is therefore considered the impact on the use of the car park would be minimal and may be considered to be an enhancement of the shopper experience within the Brentwood Town Centre. The proposal is therefore considered accord with the requirements of Chapter 2 of the NPPF.

Impact on the Character and appearance of site, adjoining conservation area and wider surrounding area:

The site is a car park on a service road and there are a number of large banner adverts on the buildings which face the south side of William Hunter Way; opposite this application site and within the Brentwood Town Centre Conservation Area.

The development due to its bright blue and yellow colour scheme chosen for the canopy signage and fencing contributes negatively to visual clutter within the public realm. Based on the comments of the Conservation officer, it is considered that the design of the canopy (with reference to colour) is harmful to the character and appearance of the adjacent Conservation Area. However, the applicant is willing to agree to change the colour scheme by way of planning conditions on any approval, and it is considered that a more discreet use of colours and signage (silver grey is recommended) in order to minimise the harm to this location can be achieved.

The applicant has also been advised that some advertisements may require express consent and that the current signage should be removed until such time as it has been approved by the Council.

It is therefore considered that subject to the implementation of the suggested conditions the proposal would have a neutral impact on the character and appearance of the site, the adjoining conservation area and wider surrounding town centre. The proposal therefore complies with the requirements of Chapter 7 of the NPPF along with policies C14 and CP 1 sub criteria (i) and (iii) of the Local Plan.

Impact on the environment

The Environment Agency has raised concerns that the discharge of car wash detergent into a surface water drain will cause unacceptable contamination to local waterways and it should therefore be discharged to a sewer. Approval for this will need to be obtained from Thames Water Utilities Ltd.

As a result of the use of the car wash, improper disposal of trade effluent would have a material impact on the natural environment, in conflict with Chapter 11 of the NPPF which requires that the planning system should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by acceptable levels of water pollution. It is also for this reason contrary to the requirements of policy PC2 (Hazardous substances) of the Brentwood Replacement Local Plan. It is considered that a condition could not be attached to any planning permission to mitigate this harm.

Impact on neighbouring residential amenity.

The applicant has made the following changes to his business:-

- Moved the machinery for the jet spray and vacuum cleaner inside the insulated portacabin.
- Reduced the jet spray pressure from 450 litres per minute to 300 litres per minute.

-Installed aco drain covers. (Partially installed).

The nearest residential properties to the use are the apartments within Bishops Gate which are situated on the southern side of William Hunter Way. This block is a minimum of 19m away from the application site. The residential properties on Western Road are 25m away

Due to the changes made, the Council's Environmental officer has no further comments to make regarding the noise levels from the use of the car wash.

Furthermore the site is situated within the heart of the Town Centre where one can expect some background level of noise and activity. Subject to conditions limiting hours of operation and noise levels of machinery, it is considered that there is no significant level of harm to the occupiers of nearby adjacent properties.

The spray drift created as a result of the spray drift could be overcome by a condition requiring the submission and approval of details in relation to a translucent screen to prevent this drift from affecting the footpath on William Hunter Way or neighbouring residential properties. There is also another drain just outside of the site on highway land which allows rain water to be drained away and therefore it is unlikely that errant jet spray water would collect up to create slippery ice on the foot path.

It is therefore considered that whilst objector concerns in relation to noise and water spray are noted, any such occurrence can be mitigated against by use of planning conditions and complies with the aims and objectives of the NPPF and BRLP CP1 (vii) and PC4.

Highways

The Highway Authority has raised no objection to the planning application, and the fencing is within the boundary of the application site. The proposal therefore complies with the requirements of policy CP 1(iv).

Conclusion:

The use of part of the car park as a Car Wash operation would contribute to sustainable economic growth within the town centre, offering add-on attraction to shoppers and users of the car park. Furthermore, subject to conditions to agree details relating to canopy coverings, hours of operation and restriction of machinery noise levels, there would be no material harm to the living conditions of the neighbouring residents, the general public or harm to the character and appearance of the area.

However, it has not been demonstrated by the applicant that resulting trade effluent can be discharged without harm to the wider environment and it is considered that such a requirement cannot be mitigated by planning condition as it requires the authorisation of a third party undertaker. The proposal would therefore fail to take into consideration or meet the environmental 'limb' requirement that sustainable development must achieve. It is not considered that the other benefits offered by the

scheme either collectively or individually outweigh this harm. The proposal therefore conflicts with the aims and objectives of the NPPF and the requirements of Local Plan Policy PC2 and CP1 (vii).

In conclusion due to the development resulting trade effluent being discharged into a surface water drain, it is likely to pollute local rivers and streams. This application is therefore contributing to harmful to water pollution and as such is contrary to the environmental role of planning. It is for this reason not sustainable development.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U09313

It has not been demonstrated that the discharge of car wash detergent which is a trade effluent, can be successfully removed from the site without unacceptable risk to the contamination of ground or surface waters. The applicant has not secured the permission of the appropriate utilities provider to discharge the waste to a sewer, and it is not considered that a planning condition could overcome the potential harm that the discharge of trade effluent could cause. The use therefore fails to meet the sustainable development criteria as set out in the National Planning Policy Framework, in particular Chapter 11, and Local Plan policy PC2 and CP1 (vii) of the Brentwood Replacement Local Plan.

Informative(s)

1 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, TC10, T2, T6, PC2, PC4, C14, PC2, PC4 the National Planning Policy Framework 2012 and NPPG 2014.

3 INF20

The drawing numbers listed above are relevant to this decision

4 U02234

The existing advertisement signs on display on the site require Advertisement Consent. The applicant is advised to contact the planning office reference Sukhi Dhadwar on 01277 312604 for further information and advice regarding this matter.

BACKGROUND DOCUMENTS

DECIDED: