

SITE PLAN ATTACHED

05. 1 YORK CLOSE SHENFIELD ESSEX CM15 8JZ

VARIATION OF CONDITION 2 (HOURS OF OPERATION) OF PLANNING APPLICATION 10/00720/FUL (CHANGE OF USE FROM CLASS B2 (GENERAL INDUSTRIAL) TO SUI GENERIS (CAR VALETING) TO CHANGE HOURS OF OPERATION TO 08:00 - 18:00 MONDAY TO FRIDAY, 08:00 - 18:00 ON SATURDAYS AND 10:00 - 15:00 ON SUNDAYS.

APPLICATION NO: 15/00046/FUL

WARD	Shenfield	8/13 WEEK DATE	07.04.2015
PARISH		POLICIES	NPPF NPPG CP1 PC4
CASE OFFICER	Ms Sukhi Dhadwar	01277 312604	
Drawing no(s) relevant to this decision:	PLANS APPROVED UNDER 10/00720/FU ; 01 ; NOISE IMPACT ASSESSMENT ; PREVIOUS APPEAL DECISION ;		

This application was referred by Cllr Cohen from Weekly Report No 1688 for consideration by the Committee. The reason(s) are as follows:

I refer this application on the grounds that the residents of York Close, do not want their weekends disturbed by increased traffic movement, parked cars in York Close, noisy generators and general disturbance to their road 7 days a week. More days creates more disturbance, general damage to the road and pavements, this is a quiet residential close and residents should not have to put up with this 7 days a week all day long.

Update since publication of Weekly List 1688

3 additional objections have been submitted in addition to those already included within weekly list number 1688. The concerns raised include

- Has the Health & Safety Executive been asked to do a risk assessment both in terms of the proposal's impact on the Listed Building and in relation to highway safety.**
- Trees and fences have been taken down by the site owner.**
- Has an archaeological survey taken place**

1. Proposals

Permission is sought for the variation of condition 2 (hours of operation) of planning application 10/00720/FUL (Change of use from class B2 (General Industrial) to Sui generis (car valeting) to change the hours of operation to 08:00 Monday to Friday 08:00 - 18:00 on Saturdays and 10:00 - 15:00 on Sundays.

The existing lawful hours of operation are 0800-1800 Monday to Friday and 0800-1300 Saturdays with no opening on Sundays or Bank Holidays.

2. Policy Context

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions.

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: (Building a strong competitive economy) requires that planning decisions should support sustainable economic growth.

Chapter 7: (Requiring Good Design) makes clear that good design is a key aspect of sustainable development.

Chapter 11: (Conserving and enhancing the natural environment) 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 being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

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.

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.

PC4: (Noise) Noise generating development will not be permitted if it would have a significant unacceptable detrimental impact on noise levels experienced by the occupiers of existing residential or other noise sensitive development. In assessing the acceptability or otherwise of any proposals, regard will be had to the standards set out in the National Planning Policy Framework and the National Planning Policy Guidance on Noise which replaces PPG 24.

3. Relevant History

- 10/00720/FUL: Change Of Use From Class B2 (General Industrial) To Sui Generis (Car Valeting) -Application Refused
- 11/01081/FUL: Variation of condition to allow extended opening hours on Saturdays to 8:00 to 18:00 -Application Refused
- 14/00728/FUL: Variation of condition 2 to change Opening Hours from 0800 - 1800 Mondays to Fridays, 0800 - 1300 Saturdays and no working on Sundays or Bank Holidays to 0800 - 1800 Mondays - Saturdays, 0930 - 1600 hours Sundays and Bank Holidays -Application Withdrawn

4. Neighbour Responses

Letters were sent to occupants of adjoining and nearby properties. A site notice was also displayed. At the time of the writing of this report 11 responses had been received. The issues raised are as follows: -

There is inadequate parking on York Close and that a car wash is not appropriate in such a residential area.

-Cars park on the public highway alongside the garage and bend. There is an increase in the likelihood of accidents occurring especially as children cross this road.

-Inconvenience from traffic manoeuvring in and out of the garage when entering or leaving York Close.

-This is a residential area and is not suitable for the amount of traffic that is generated by the use.

-Can hear washers working and noise from the site.

-Health and safety issues as a result of the current renovation works at Glanthsams House.

-Need one day of respite from noise and disturbance of the use.

-York Close a quiet cul-de-sac.

-Existing nursery users also regularly park in the close in dangerous positions

-Car wash has no long term future.

-existing car sales business has been overstocking as cars are regularly parked in York Close often still displaying their for sale signs and out of date tax discs.

-Road and pavement in disrepair due to increased traffic. There is also an increase in litter.

3 York Close were not consulted by Environmental Health and feel that there is a significant noise problem.

-there is always noise from this valet company, loud music, revving engines, loud voices, its like being in the back garden with them. Neighbours should not have to suffer in order for them to make profit.

5. Consultation Responses

- **Highway Authority:**

From a highway and transportation perspective the Highway Authority has no comments to make on this proposal.

- **Environmental Health & Enforcement Manager:**

This service has considered the application for extending the hours for the car wash and valeting business taking into account the close proximity of the residential premises surrounding the site and the potential for noise disturbance.

Speaking to the closest adjacent neighbours, it is clear that noise from the business is not an issue for them, however, any noisy use of the rear car park area is likely to cause disturbance.

The Noise Impact Assessment indicates that acceptable noise levels can be achieved and therefore, subject to the applicant following the recommendations shown in their Impact Assessment in section 7.0, this service has no objections to the extended hours.

In addition, the use of all machinery and noise producing equipment like pressure washers/vacuum cleaners etc. should be restricted to only be used in the enclosed area outlined by the applicant and not in the parking area. Only preparing, polishing or other quiet activities not requiring machinery may be carried out outside this enclosed workshop area and amplified sound (music/radios) shall not be permitted on this site to protect the amenities of neighbouring properties.

In addition, I draw the applicant's attention to the Environment Agency Pollution Prevention Guidelines on Vehicle washing which can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290144/pmho0307bmdx-e-e.pdf

- **Essex & Suffolk Water:**

We have no objection to the proposed Change of Use from a Class B2 (General Industrial) to a Sui Generis (Car Valeting), and the change of operating hours at the above site.

We give consent to this Change of Use on the condition that the water supply is metered for revenue purposes.

The following will apply as the premises are commercial:

Essex & Suffolk Water are the enforcement agents for The Water Supply (Water Fittings) Regulations 1999 within our area of supply, on behalf of the Department for the Environment, Food & Rural Affairs. We understand that a planning application has been made for the above premises which are Notifiable under Regulation 5 of the Water Supply (Water Fittings) Regulations 1999. Please see the copy of the Water Regulations Information Sheet No. IS - 0014 attached for more detailed information.

- **Anglian Water Services Ltd:**

No reply received at time of writing report.

- **Environment Agency:**

No reply received at time of writing report.

- **Historic Buildings And Conservation Officer:**

I raise concerns regarding this application on the basis that works upon the adjacent listed building (list entry number 1197222) has commenced and the access for the site will share egress with this commercial offer. At present the Listed building is being stripped back to its Timber Frame, therefore access needs to be minimized so as not to compromise the Heritage Asset or the works programmed in as part of the planning permissions (FUL and LBC).

Can more you supply more information on this, as presently the wheel washing facilities and materials storage which relates to the works at the Listed Building conflict with the car valeting service access under these proposals. In addition the existing commercial offer should be perhaps notified of the works being undertaken. The site owner should be able to supply a detailed construction programme to facilitate this.

6. Summary of Issues

This application has been assessed against policies laid out in the National Planning Policy Framework (NPPF) (2012), National Planning Policy Guidance (2014) and the Brentwood Replacement Local Plan (2005).

The issues relevant to the determination of this application are:

The impact of the proposal on neighbouring residential amenity.

Planning History

Shiny Hands Car Wash operates at the site of a former petrol service station located in a residential area. The car wash building is located at the rear of the site, with access from York Close. It had previously operated without planning permission for a number of years. This resulted in enforcement complaints being received. The applicants then applied for permission under reference 10/00720/FUL to change the use of the application site to a car wash (Sui Generis). This application was allowed on appeal (ref: APP/H1515/A/11/2151306) As part of that permission the Inspector imposed conditions restricting the hours of operation to 0800-1800 Monday to Friday and 0800-1300 Saturdays with no opening on Sundays or Bank Holidays.

Subsequently under reference 11/01081/FUL an application was submitted which sought to extend the Saturday hours until 1800; the remaining hours of operation would remain unchanged. This application was refused on the grounds that the extension of hours would result in noise and disturbance that would unacceptably detract from the living conditions of the occupiers of adjoining residential properties.

This decision was made on the basis of paragraph 20 of the Inspector's decision notice for the above appeal which stated "that provided the hours of operation are similar to those of the other users of the site, and the use of equipment and machinery is confined to within the building, the harm to residential amenity will be reduced to an acceptable level. I agree with the Council that there is a case for limiting disturbance on Saturday afternoons as well as Sundays. I intend to restrict Saturday working to between 0800 and 1300. By granting a limited hours permission local residents should be free from noise and disturbance outside normal business working hours, which will be a considerable improvement upon the previously unregulated operation. Allowing the continuation of the car wash with limited operating hours would be consistent with the aims of Policy CP1."

It should be noted that at the time of the 2011 application the Council's Environmental Health Officer (EHO) did not object to the extension of the hours until 1800 on Saturdays, but neither did the applicant lodge an appeal against the Council's decision.

Since that decision, the Government has introduced the NPPF and The National Planning Policy Guidance which indicates that local planning authorities should consider noise issues within new development but not in isolation or separately from the economic, social and other environmental dimensions of the proposed development.

When determining planning applications and the impact of noise, the Council must take account of the acoustic environment and in doing so consider:

- o "whether or not a significant adverse effect is occurring or likely to occur;
- o whether or not an adverse effect is occurring or likely to occur; and
- o whether or not a good standard of amenity can be achieved.

In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy".

A noise impact assessment carried out by an independent acoustic professional on a Sunday and has been submitted as part of this application.

The details submitted as part of this assessment have been found to be satisfactory by the Environmental Health Officer (as they accord with the requirements of BS: 4142 Methods for rating and assessing industrial and commercial sound), subject to conditions relating to the restriction of no amplified music, no pumping unit of the jet sprayer and vacuums remain inside the building. A suggestion that employees of the site are given management advice in order to improve their noise awareness.

It is therefore considered that sufficient evidence has been submitted to establish that the use of the car wash during the hours proposed would not result in any unacceptable noise or disturbance to the occupiers of neighbouring properties in line with Paragraph 123 of the Framework.

The expanded use would also support the economic and employment functions of the area which meets the aims and objectives of the National Planning Policy Framework is supporting sustainable development.

Impact to adjoining listed building

The Historic Buildings Officer has raised concerns on the basis that the use of the site for the car wash shares access with the project to renovate the nearby Listed Building (Glanthams House) and could compromise the Heritage Asset/works programme, and that to allow extended opening hours for the car wash would increase that risk.

The car valeting use is already in operation therefore vehicles already have access through this route. Furthermore the listed building is in the same ownership as the application site and therefore it would be the owner's private legal responsibility to ensure that the listed building is not damaged as a result of the extended hours. It is therefore considered that this issue would not be material to the determination of this application.

Highway Safety

The Highways Authority have raised no objections to the proposal, it is therefore considered that the proposal will not lead to any additional significant highway or parking concerns. The proposal therefore complies with the requirements of CP 1 (iv) of the Local Plan.

Other matters

Issues related to the car sales and nursery businesses are not material to the determination of this application.

Health and Safety issues would be regulated by the Health and Safety Executive.

Concern have been raised in relation to the cutting down of trees at the entrance of the site. The Tree Officer has visited the site and found that these trees were protected and did not have sufficient amenity value to justify their protection.

National validation requirements would not permit the Council to require that an archaeological survey, landscape plan or contamination survey be submitted. This is because the application will not result in additional operational works, only the extension of hours for an established use.

In conclusion the proposal subject to conditions would not give rise to significant adverse noise impacts and will encourage economic growth through the creation of employment. The proposal therefore meets the criteria required to be deemed sustainable development in accordance with the NPPF and Brentwood Replacement Local Plan 2005.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 U10145

This permission shall not be implemented unless and until the noise mitigation scheme set out in section 7 of the Noise Impact Assessment submitted with the application by Nova Acoustics Ltd has been fully undertaken and these noise mitigation measures shall be maintained for duration of the use.

Reason: In the interests of residential amenity in accordance with paragraph 123 of the NPPF along with PC4 and CP 1 of the Brentwood Replacement Local Plan 2005.

4 U09983

The use shall not operate and no machinery or equipment associated with it shall be used on the premises before 0800 and after 1800 on Mondays to Saturdays or before 10:00 and after 1500 on Sundays, nor at any time on Bank or Public Holidays.

Reason: In the interests of residential amenity in accordance with paragraph 123 of the NPPF along with PC4 and CP 1 of the Brentwood Replacement Local Plan 2005.

5 U10146

The use of all machinery and noise producing equipment like pressure washers/vacuum cleaners etc. shall be restricted to only be used in the enclosed area outlined by the applicant and not in the parking area.

Reason: In the interests of residential amenity in accordance with paragraph 123 of the NPPF along with PC4 and CP 1 of the Brentwood Replacement Local Plan 2005.

Informative(s)

1 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 INF05

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

3 U02388

In order to obtain information about the Environment Agency Pollution Prevention Guidelines on Vehicle washing, please go to

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290144/pmho0307bmdx-e-e.pdf

BACKGROUND DOCUMENTS

DECIDED: