

2.3 REFERENCE NO - 15/510565/FULL		
APPLICATION PROPOSAL Retrospective application for the erection of a canopy and sound attenuation fence to car wash area. Prospective application for the erection of further sound attenuation fencing to the north of the existing fencing.		
ADDRESS Hand Car Wash, 15 - 21 Key Street, Sittingbourne, Kent, ME10 1YX.		
RECOMMENDATION Approve, subject to the receipt and consideration of any additional comments arising from the reconsultation period (deadline for comments 20/6/16) which will be reported to Members at the meeting.		
SUMMARY OF REASONS FOR RECOMMENDATION The fence does not seriously harm residential amenity and provides protection to residents of 23 Key Street and others from spray and noise pollution and so should be approved.		
REASON FOR REFERRAL TO COMMITTEE At the request of Councillor Baldock		
WARD Borden & Grove Ward	PARISH/TOWN Bobbing	COUNCIL APPLICANT Mr L Kapaj AGENT Woodstock Associates
DECISION DUE DATE 7/07/16	PUBLICITY EXPIRY DATE 20/06/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
15/505017/FULL	Retrospective - Erection of canopy over car wash area	Withdrawn
SW/14/0151	Siting of portacabin and drainage interceptor for car washing operation	Approved
SW/99/0497	Extension to existing vehicle workshop to provide vehicle paint spray booth/oven	Approved
SW/03/1093	Variation of condition (2) of SW/91/1212 and condition (2) of SW/91/1213 to allow 24 hour opening.	Approved
SW/91/1213	Duplicate application for demolition of existing service station and 3 dwellings & construction of new service station, car wash & vehicle service building	Approved
SW/91/1212	Demolition of existing service station and three dwellings, & construction of new service station, car wash & vehicle service building	Approved
SW/90/1034	Reconstruction of existing service station and demolition of 3 dwellings. Provision of new service station and vehicle service building.	Refused

SW/80/0555	Rebuilding of existing garage as mot testing bay new office at rear and minor improvements to front elevation	Approved
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1.0 DESCRIPTION OF SITE

- 1.01 The application site lies to the rear of the petrol filling station, close to the Key Street roundabout to the west of Sittingbourne, within Bobbing Parish. To the east, it directly abuts the side boundary of no.23 Key Street, running almost the entire length of the rear garden of this dwelling. To the west lies an existing vehicle repair building. Beyond this lies no.13 Key Street. To the north is an area of open land. The petrol filling station lies immediately to the south and southwest, with the A2 and other dwellings beyond.
- 1.02 The site is currently occupied by a portacabin (approved under SW/14/0151), various items associated with the car wash (cleaning products, moveable plant etc) and the fence and canopy the subject of this application.
- 1.03 Planning permission was granted for the redevelopment of the site in 1991 (reference SW/91/1212), for “*new service station, car wash, and vehicle service building*” .This permission effectively granted consent for B2 use of the area to the rear of the petrol station, which is where this car wash operation is located. The car wash referred to in the decision notice is the car wash at the petrol station, and not the hand car wash now operating.
- 1.04 Car washing can fall within use classes B1 (light industry) or B2 (general industry). The class it falls into depends on the impact of the use. A use falling within B1 is defined as an industrial use which “can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”. In this case, the use generates noise and disturbance to adjoining properties, and as such cannot be considered to be B1 use. Instead, it amounts to a B2 (general industrial) use.
- 1.05 As I set out above, the wider site has permission for a B2 use, and the car wash is therefore lawful under the terms of the 1991 permission. Unfortunately, the permission does not impose any restrictions on B2 use outside the vehicle repairs building and as such the car wash is, in effect, uncontrolled by any planning conditions. It is in itself lawful, and is not the subject of this current application.

2.0 PROPOSAL

- 2.01 This application seeks retrospective planning permission for the erection of a canopy and a sound attenuating fence, and prospective planning permission for the erection of further sound attenuation fencing to the north of the existing fencing.
- 2.02 The canopy is constructed of a steel frame with a flat, profiled sheet roof. It is “L” shaped, and measures 9 metres in width, a maximum of 14.6 metres in depth (along the boundary with no.23 Key Street) and is 3.4 metres in height. The approved portacabin lies underneath the northern end of the canopy.

- 2.03 The existing sound attenuating fence is approximately 3.5m tall and runs along the common boundary with 23 Key Street from near the rear elevation of this dwelling to a point approximately 12m to the north. The application also seeks prospective permission for additional sound attenuating fencing of the same height and design for the remaining 12m length of the common boundary.

3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) regarding achieving sustainable development; requiring good design; conserving and enhancing the natural environment, which states at paragraph 109;

“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 of soil, air, water or noise pollution or land instability”.*

- 3.02 Development Plan: Policies E1 and E19 of the Swale Borough Local Plan 2008. Policies CP4 and DM14 of the Emerging Local Plan.

4.0 LOCAL REPRESENTATIONS

- 4.01 Five letters of objection have been received from three separate addresses. The issues raised are summarised as follows:

- The new acoustic fence improves the look of the car wash but doesn't improve noise from it.
- The operation is in the wrong location near a dwelling and causes noise (including parked vehicles with revving engines, machinery noise, staff shouting over machinery), spray (mist drifting over fence) and traffic pollution.
- Car wash should be to west of site.
- Do not consider any form of noise attenuation fence will be of any use as it is so close the dwelling and garden.
- We assume Southern Water have been informed of outflow of contaminants into the water system.
- Are highways happy vehicles backing up onto the A2, particularly at weekends.
- Fence only erected for small portion of boundary and has little or no impact on noise attenuation.
- Fence is basic not acoustic grade.
- Fence should be of consistent design to reduce visual impact.
- Design is an eyesore and can be seen from all properties affected.
- Fence should run from front to rear of site along boundary due to noise levels and washing queueing cars.
- Neighbouring dwellings have amenity spoilt and cannot open windows/doors or use gardens without noise pollution, especially at weekends and bank holidays.
- Council failed to consider impact on neighbours when granting permission for drainage interceptor and cabin which have led to intensification of use and resultant harm.
- Residents concerns have been ignored, the noise and disturbance is totally unacceptable, and the proposal is poorly constructed.

- Queueing cars can see inside dwelling.

5.0 CONSULTATIONS

5.01 Bobbing Parish Council states “No comments”.

5.02 The Council’s Environmental Health Manager comments;

“The applicant has previously installed acoustic grade fencing along part of the boundary with the neighbouring residential property. This work was undertaken following complaints made to the Council about excessive noise and in an attempt to reduce the adverse impact from the car washing operation on neighbours.

Unfortunately the success of this solution has been less than expected in reducing the noise. This application is for the provision of acoustic fencing along the full length of the boundary and effectively extending that existing, to a point at the end of the rear garden of the neighbouring property.

The acoustic fencing currently in place is an improvement over the previous boundary fence in terms of reducing water over spray and does provide some degree of noise attenuation from the car washing operation. I have no objection to the proposal for the provision of an acoustic fence along the full length of the boundary together with a canopy (as described and shown on the site plan included with the application) and recommend the following condition:

Prior to the installation of an acoustic fence to be erected along the full length of the boundary with the adjoining residential property, its details and specification shall be submitted to and approved by the Local Planning Authority and once approved, this shall thereafter be installed and permanently retained.”

5.03 Kent County Council Highways and Transportation note that the use of the land is not being considered and that the impact of the fencing and canopy is acceptable from a highway perspective because they do not effect the operation of the public highway.

5.04 Kent County Council Archaeology Unit confirms no archaeological measures are required.

6.0 BACKGROUND PAPERS AND PLANS

6.01 The application includes proposed drawings.

7.0 APPRAISAL

7.01 I am extremely sympathetic to the objections of local residents, especially on the grounds of noise pollution from the use of the site. Unfortunately, as set out in section 1 of this report, the use of the site for car washing purposes is lawful under the 1991 permission, and does not form part of this proposal. Members can therefore only consider that which has been applied for, namely the canopy and fence.

7.02 The Council cannot (through the planning process) prevent the car wash from operating, and cannot therefore take into account noise and spray, or traffic issues, or drainage issues as potential reasons for refusal of the current application. The Council can only look to mitigate the impact of the car wash through the planning process. If Members refuse the application and authorise enforcement action, the only result we

can seek to achieve is the removal of the existing fence and canopy – the car wash could carry on unabated.

- 7.03 The key issue for Members to consider is whether any harm to the amenities of the adjoining residential property and to the visual amenities of the area, arising from the erection of the fence and canopy is outweighed by any attenuation they provide against noise and spray from the use of the land as a car wash.
- 7.04 Clearly, the principle impact of the proposal is on the residential amenities of the occupiers of 23 Key Street, which is immediately adjacent to the application site. I have visited the rear garden of 23 Key Street and find that the fence, as erected, does not cause serious harm to residential amenity by virtue of its height or resultant overshadowing or sense of overbearing. The site visit photographs demonstrate this in my opinion and the existing mature landscaping within the garden of 23 Key Street helps to soften the appearance of the fence still further. I do not anticipate the prospective fence having any greater impact than the existing section of the fence for which retrospective permission is sought. The fencing also serves to screen views of the canopy.
- 7.05 The comments of the Council's Environmental Health Manager make clear that whilst the acoustic fence has been less successful than hoped for in reducing noise pollution, it is undoubtedly an improvement over the previous boundary fence in terms of reducing water spray and does provide some degree of noise attenuation from the car washing operation. Given the lack of identifiable harm to residential amenity and the positive noise and spray control properties of the fence, it is clear to me that both the retrospective and prospective fences should be supported as a means of making an unfortunate situation better for local residents. Clearly it does not eradicate the wider problems being experienced by residents arising from the use of the land but it does not fall within the power of the Local Planning Authority to address this issue of principle.
- 7.06 Given that the impact of the proposal on the residential amenities of the occupiers of 23 Key Street are considered acceptable, it follows that the impact on more distant residential properties in the area is acceptable. If Members decide to approve this application, it would enable the applicant to erect the prospective acoustic fencing in order to remedy any subsequent statutory noise nuisance the Council's Environmental Health Team identify after further assessment. I recommend the condition advised by the Environmental Health Manager in order to give the Council control over the specification of the prospective fence in order to minimise noise pollution as far as practicable in the circumstances.
- 7.07 The fence and canopy have a functional design that is commensurate with that of the petrol filling station and adjacent garage and for this reason is acceptable in my opinion. The impact of the proposal on the visual amenities of area and the character and appearance of the streetscene are relatively limited in my opinion because of the topography of the site with lower land levels towards the rear of the site and the fact that views of the site from the A2 Key Street are relatively constrained by the side elevation of the petrol filling station shop and that of 23 Key Street.
- 7.08 The proposal would not give rise to any impact on the highway network, as confirmed by Kent County Council Highways and Transportation. The impact in this regard is acceptable in my opinion. Kent County Council Archaeological Unit requires no archaeological measures.

8.0 CONCLUSION

8.01 The canopy and fence do not seriously harm residential amenity and provides protection to residents of 23 Key Street and others from spray and noise pollution, and so should be approved.

9.0 RECOMMENDATION – GRANT Subject to the receipt of any additional comments arising from the reconsultation period (closing date 20/6/16) and to the following conditions;

- (1) Prior to the erection of the prospective acoustic fencing hereby permitted, details and a specification shall be submitted to and approved in writing by the Local Planning Authority. The acoustic fence shall be erected in accordance with the details approved and shall thereafter be retained in perpetuity.

Reasons: To secure an acoustic fence that will effectively reduce noise pollution in the interests of residential amenity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.