

PLANNING COMMITTEE – 8 DECEMBER 2016

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 15/510565/FULL		
APPLICATION PROPOSAL Part retrospective application for attenuating fence and canopy		
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 COUNCIL Bobbing	APPLICANT Mr L Kapaj AGENT Woodstock Associates
DECISION DUE DATE 7/07/16	PUBLICITY EXPIRY DATE 08/11/16	
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15/505017/FULL	Retrospective - Erection of canopy over car wash area	Withdrawn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	Approved

	dwelling, & construction of new service station, car wash & vehicle service building	
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

MAIN REPORT

1.0 BACKGROUND

- 1.01 Members may recall this application – it was reported to the Planning Committee Meeting on 30th June this year, and at that time sought retrospective permission for a canopy and sound attenuating fence, and planning permission for further sound attenuating fencing to the north, at an existing hand car wash at 15-21 Key Street. The original report is attached as an appendix to this report.
- 1.02 At the Meeting, Members resolved to defer the application “to allow for further discussion to consider whether the opening hours could be adjusted, and the length of the acoustic fence.”
- 1.03 Since the Meeting, my officers and Environmental Health Officers have visited the site and held discussions with the applicant and agent. The application has been amended as follows and neighbouring properties have been notified.

2.0 DESCRIPTION OF SITE

- 2.01 The site remains as per the previous report. As set out in the previous report, it is important for Members to note that the use of the site as a car wash is lawful, does not in itself require planning permission and is not the subject of this application.

3.0 PROPOSAL

- 3.01 The application has been amended to show the canopy extended up to the rear of the adjacent dwelling, and the fence raised slightly to meet the canopy. The fence is not proposed to be extended along the blank flank wall of the adjacent dwelling, as the agent considers this would provide little by way of noise attenuation. Whilst the applicant has not provided any proposal to reduce the operating hours of the car wash, the agent has indicated that he may be willing to reduce the hours of use on a Sunday. The agent advises that current operating hours are 8am -6pm six days a week and 8.30am -5.30pm on Sundays, commenting that:

With the new canopy arrangement [currently proposed] in place and better sound attenuation he would prefer to not change the hours at all but if it would help ease the path to approval then he would agree to 9am – 5pm on Sundays.

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 Two letters of objection have been received as the result of the re-consultation raising the following issues:

- As the structure is already up and it has little or no sound reducing qualities I am opposed to this proposal.
- I shouldn't be able to hear the car wash over my tv with the doors shut. With the doors open in the summer it was just unbearable. Now they want to add to the existing structure further to create a larger canopy area, this is not going to improve the noise transfer to mine and my neighbours property,
- It's just going to encourage them to stay open later than they already are.
- As other car washes in the area don't have such massive structures covering them and they seem to operate just fine I am not sure why this is required
- The unbearable noise will not disappear as the result of this amendment;
- The use must be made to cease;

No other representations have been received.

5.0 CONSULTATIONS

- 5.01 The Environmental Services Manager has provided the following comments:

Provision of a canopy to enclose the area of the car washing bay, sealed at the top edge with the acoustic boundary fence, is in my view the best practical solution to reducing noise and water overspray from the jet washing operation on site.

Whilst the combination of acoustic fencing and canopy will have a beneficial affect, it will not eliminate all noise completely due to the juxtaposition of a commercial activity with residential gardens.

6.0 BACKGROUND PAPERS AND PLANS

- 6.01 Application papers, plans and supporting statements.

7.0 APPRAISAL

- 7.01 As I set out above, and at length in the previous report, the use of the site for a car wash is lawful, does not require planning permission, and is not under scrutiny here.

Refusal of planning permission for this scheme would not result in the cessation of the use from a planning point of view, and would simply result (if enforcement action were to be successfully taken) in the removal of the canopy and fence currently constructed on site. The use as a car wash could carry on unfettered by action from the Local Planning Authority.

- 7.02 I note the previous concerns raised regarding highway matters. The development as built and the additional development proposed would not have any impact on highway safety or convenience and I find it acceptable in this regard.
- 7.03 Given the above, the key considerations here are the impact of the development proposed on residential amenity and visual amenity.

Visual Impact

- 7.04 As I set out to Members previously, 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 proposed extension to the canopy would not in my view cause any significant additional visual impact. 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.

Residential Amenity

- 7.05 The fence as built and the canopy as built do not in my view harm residential amenity, as I set out in my previous report. The proposed extension to the canopy would have some additional impact on the amenities of any occupier of the adjacent dwelling. However – it would not cause such substantial loss of light or outlook that planning permission should be refused. In addition, I am mindful of the benefit it would give in terms of noise attenuation and prevention of spray.

Other Matters

- 7.06 Members will no doubt be aware that the amendments now proposed do not tally with the reason for deferring this application. Specifically, the resolution of the Planning Committee was to enable discussion relating to the fence and potentially extending it further along the flank of no.23 Key Street, the adjacent dwelling. I am firmly of the view that the scheme now proposed, namely extending the canopy, would be more beneficial in terms of reducing exposure of the future occupiers of this dwelling (which currently lies empty) to spray, and in particular noise. The flank wall of the dwelling is blank, and has no openings. Provision of a noise attenuating fence along this elevation would be of no practical benefit.
- 7.07 In terms of the reduction in hours of use, I have given this matter very careful consideration. As I set out above, the use of the site is lawful, does not require planning permission, and could operate, in planning terms, 24 hours a day without any action being available to the Local Planning Authority to prevent it. I recognise the rationale behind the Committee's deferral of the application, and I note the comments of the agent, as set out in paragraph 3.01 above. However – this issue lies outside of the control of the Local Planning Authority. The application is not an opportunity to impose controls on a use which is lawful and not subject to any planning restrictions. I do not therefore recommend imposing any conditions restricting the hours of use of

the site. Members should be clear – I am not stating that unfettered use of the site is acceptable. I am though clear that it cannot be controlled through the planning system.

8.0 CONCLUSION

8.01 The proposed canopy and fence would not give rise to harm to residential or visual amenity. I recommend that planning permission is granted.

9.0 RECOMMENDATION – GRANT Subject to the following conditions/

CONDITIONS to include

- 1) Prior to the installation of the additional fencing and extended canopy over the car washing area adjoining the 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.

Reason: To secure an acoustic fence and canopy that will effectively reduce noise pollution and spray 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.