

Case Officer: Joe Freegard
Tel. No: (01246) 345580
Committee Date: 30th October 2017

File No: CHE/17/00625/COU
Plot No: 2/902

ITEM 1

FULL PLANNING APPLICATION FOR THE CHANGE OF USE TO A HAND CAR WASH AT UNIT 2, WHITTING VALLEY ROAD, OLD WHITTINGTON, DERBYSHIRE, DERBYSHIRE FOR MR MAJED ALI

Local Plan: Economic Growth
Ward: Old Whittington

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategy Planning Team	No objections
Environmental Services	No objections
Design Services	No objections
Environment Agency	No comments
Yorkshire Water	No objections
Lead Local Flood Authority	No comments
DCC Highways	No objections
Neighbours/Site Notice	2 letters of objection, petition signed by 13 individuals objecting to the plans and petition signed by 24 individuals supporting the plans.

2.0

THE SITE

2.1

The site the subject of the application comprises an area of land located at Unit 2 Whitting Valley Road in the Old Whittington area of Chesterfield. Whitting Valley Road is situated to the East of Station Road and Whittington Hill and predominantly comprises industrial units. The site itself is largely rectangular in shape, measuring approximately 0.1 hectares. The site is currently covered by hardstanding, with a plastic coated chain link fence and dwarf wall in blue forming the boundaries to the South East and South West of the site. A further chain link fence forms the boundaries to the North East and North West of the site, and vehicular access to the site is via a set of double gates to the South West. A shipping container and raised area of hardstanding are currently on site. Neighbouring residential properties are situated to the North East of the site at a higher level, a glazing services company is situated to the South East of the site, the roadway of Whitting Valley Road is situated to the South West of the site, and an autocare centre is situated to the North West of the site. The site is allocated within the Local Plan as an area for Economic Growth. The last use of the site is unknown, but likely to have been industrial.



3.0 **RELEVANT SITE HISTORY**

3.1 None.

4.0 **THE PROPOSAL**

4.1 A planning application has been made for the change of use of the site to a hand car wash. The proposed opening times are 09:00 and 18:00 on all days and it is expected that the equivalent of eight full time members of staff would be employed.

4.2 A shipping container is also proposed to be sited on the land, and this can be achieved under Permitted Development rights for an industrial site. No other alterations are proposed on site.

5.0 **CONSIDERATIONS**

5.1 **PLANNING POLICY**

5.2 The site is located within Whitting Valley Road Trading Estate, an existing business and industrial area and would be an appropriate use in accordance with Core Strategy policy CS13. The proposed development would enable job creation and support existing jobs, and support the role of Whitting Valley Road Trading Estate as an established employment location. It would accord with policies CS2 and CS13 of the adopted plan and would support the plan's spatial strategy and objectives. As the proposed floorspace does not qualify as a Major Application, there is no requirement to secure a Local Labour clause. The proposal is for employment related development and would not therefore be CIL-liable.

5.3 The application site is within the confines of an area identified in the Local Plan: Core Strategy as an area for economic growth. The application seeks to use the vacant site as a hand car wash facility. The application will create employment positions and in this context, and with regard to the location of the site and the requirements of Policy CS13 (Economic Growth) of the Core Strategy, the principle of the proposal is supported. Whilst the proposal is only a modest

form of development, it will nevertheless have a positive impact on economic growth. In summary, the proposal is considered acceptable in principle and therefore accords with Policies CS2 and CS13 of the Core Strategy, as well as the wider objectives of the NPPF.

- 5.4 The proposal is lacking in detailed design but should make effective use of the site to prevent any further impact on the visual amenity of the area through the site's longstanding vacancy. Overall, the proposed development should not detract from the character or appearance of the application site or the wider locality in order to comply with the design objectives of Policy CS18 of the Core Strategy and Chapter 7 of the NPPF. Core Strategy Policy CS18 requires that development will be expected to have an acceptable impact on the amenity of users and neighbours. The proposal is a relatively minor form of development in the scale of the wider established industrial/business area within which the site is set. However, the site does adjoin neighbouring residential properties and business uses. Having regard to any operational requirements from Environmental Health, if it is considered that the nature of the proposal and its scale, combined with its location and surrounding context would prevent any undue impact from the operation of the hand car wash on neighbouring amenity, the proposal would comply with criteria k) of Core Strategy Policy CS18 and Policy CS8 as well as the broad objectives of CS2. In addition the proposal should respond positively responds to one of the Core Planning Principles of the NPPF (paragraph 17) that, '...planning should: always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.
- 5.5 The proposal should comply with advice from the Highways Authority in order that it would not present a threat to highway safety that would be considered contrary to criteria g) of Policy CS18 of the Chesterfield Borough Local Plan: Core Strategy. Part of the site is located within Flood Risk Zone 3 but the proposed use is compatible with the level of flood risk to the extent that the proposal would accord with CS policy CS7. The proposal should comply with advice provided by Yorkshire Water Services Ltd in order to accord with the requirements of Policies CS7 and CS8 of the Local

Plan: Core Strategy (2013) insofar as managing drainage and preventing water contamination is concerned.

5.6 Overall it is considered that the proposed plans are in accordance with policy and the comments of the Strategy Planning Team are supportive. It is considered that the change of use of a site allocated for Economic Growth to a hand car wash is entirely appropriate in this location.

6.0 **Design and Appearance (Including. Neighbour Effect)**

6.1 As previously stated, a shipping container is proposed to be sited on the land. This can be achieved under Permitted Development rights for an industrial site and is not therefore considered as part of this application. No other alterations are proposed on site. It is considered that the operation of a hand car wash facility in this location could impact on neighbouring properties to an extent, given that residential properties are situated directly to the North East of the site. As such, Environmental Health were consulted on this application in order to assess the impact of noise - see below. It is not expected that the development would result in any adverse issues for neighbouring properties in terms of visual impact, overlooking, overshadowing, or an overbearing impact.

7.0 **Highways Issues**

7.1 The Highway Authority were consulted on the application and they raise no objections. It was stated that details of on-site parking and circulation through the site and details of how any water is to be prevented from escaping out onto the public highway should be provided. It was also stated that the applicant would need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins. Bin storage should not obstruct the private drive access, parking or turning provision. A bin dwell area should be provided clear of the public highway, private access, parking and turning for use on refuse collection days.

7.2 The Highway Authority recommended that a condition be imposed as follows;

Prior to any works commencing the applicant shall submit a scheme for prior written approval showing parking, turning, bin storage/dwell area and means to prevent water from escaping out onto the public highway. The details should include locations. The approved scheme shall be implemented in full prior to the proposed car wash facility being brought into use.

7.3 It is considered that the condition suggested by the Highways Authority is entirely necessary in terms of highway safety. Subject to the imposition of this condition, it is not considered that these plans would result in any adverse issues in terms highway safety, parking or congestion. It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality.

8.0 Environmental Health Issues

8.1 Environmental Health stated that the site is in an area where there is potential for land contamination and the applicant needs to ensure that the site is suitable for use and whether any potential contamination could leach into the drainage system. In response to these comments, it is not considered that a contaminated land assessment is required for a development whereby no building work would take place. It is considered that any issues relating to drainage are addressed by further consultee responses contained within this report.

8.2 Environmental Health stated that the site is near to residential properties, and recommended that the site is only used between the hours of 8am and 6pm Monday to Saturday, with no operations on a Sunday or Public Holiday. Correspondence took place with the applicant in relation to this recommendation, as it was highlighted by the applicant that operating on Sundays would be crucial to the business success. Although this is recognised, it is also considered that the operation of such a business throughout every weekend would potentially result in an adverse impact on neighbouring residential properties. It is recognised that the

noise generated by any machinery such as pressure hoses and valeting, along with noise resulting from the shutting of car doors and from the conversation of workers would be outside the confines of a building. As such, it is considered that the proposed use may result in further issues with noise than most of the other businesses nearby. As such, it is considered appropriate to restrict operating hours over weekends to ensure that any impact on neighbours is minimised. Following discussions with the applicant, it was agreed that opening hours over weekends should be restricted to between 8am and 1pm on Saturdays and Sundays. These restrictions would allow for the business to operate throughout the weekend, which the applicant has highlighted would be crucial, whilst ensuring that any impact on neighbouring residential properties would be minimised to a reasonable level.

9.0 Design Services

9.1 Design Services were consulted on this application and raised no objections. It was stated that part of the site is shown to be within Flood Zone 3 on the Environment Agency flood maps, however this type of commercial development may be classed as 'less vulnerable' under the NPPF and may be suitable for this location. Further to comments from Yorkshire Water, the runoff from the vehicle wash areas should not discharge to the surface water drainage system and must be discharged to the foul/combined system to prevent pollution of downstream watercourses. The runoff should also pass through an oil interceptor prior to discharge to the sewerage system.

10.0 Yorkshire Water

10.1 Yorkshire Water were consulted on this application and stated that if planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and YW infrastructure:

No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-

- a) evidence of existing positive drainage to public sewer and the current points of connection; and

- b) the means of storing and attenuating the restricting the surface water discharge to public sewer have been submitted to and approved by the Local Planning Authority . Furthermore, unless otherwise approved in writing by the Local Planning Authority , there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

(To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage)

Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil, petrol and grit interceptor /separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network .

(To prevent pollution of the aquatic environment and protect the public sewer network)

The drainage details submitted on drawing B1 undated are not currently acceptable to Yorkshire Water. They comment however that the matter can be controlled via condition if planning permission is granted. The following points should be addressed:-

- a) the submitted drawing should show foul and surface water drainage proposals both on and off site;
- b) evidence of existing impermeable areas positively draining to the public sewer is required to prove rate of discharge; and
- c) the submitted drawing should show surface water storage and the flow control rate.

10.2 It is considered necessary for the conditions suggested by Yorkshire Water to be imposed, in order to protect the local aquatic environment and Yorkshire Water infrastructure.

11.0 REPRESENTATIONS

11.1 As a result of neighbour notification, two letters of objection (Dignity Funerals Ltd and JBS Autos), a petition signed by thirteen individuals from Langtree Avenue objecting to the plans and a petition signed by twenty four individuals supporting the plans have been received.

11.2 The objections to this application raise concerns with regards to chemicals in the atmosphere, air pollution, noise pollution, ground pollution, damage to cars, flooding, traffic and highway safety.

11.3 ***In response to the objections raised, Environmental Health confirms no objections in relation to chemicals in the atmosphere, air pollution, or ground pollution. In terms of noise, it is considered that the imposition of a condition restricting the hours of operation is sufficient to mitigate any impact in terms of noise on neighbouring properties and this is debated in para 8.2 above. Any damage to cars would be a civil matter, and it is considered that any issues in relation to flood risk can be appropriately addressed through the imposition of conditions. In terms of traffic and highway safety, the Highway Authority were consulted on this application and they raised no objections subject to the imposition of conditions. It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality.***

12.0 HUMAN RIGHTS ACT 1998

12.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law

- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

12.2 It is considered that the recommendation is objective and in accordance with clearly established law.

12.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

13.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

13.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

13.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

13.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

14.0 **CONCLUSION**

- 14.1 The proposed plans are considered to be appropriate in principle, and would not have any adverse impact on neighbouring properties, highway safety or the surrounding area. It is not expected that the development would result in any adverse issues for neighbouring properties in terms of visual impact, overlooking, overshadowing, or an overbearing impact. There have been no objections in principle from Environmental Health, and it is considered appropriate to restrict the hours of operation in order to protect the residential amenity of neighbouring properties.
- 14.2 It is considered that all vehicles using the facility would be contained within the site, and as such the proposed plans would not lead to any issues in terms of parking provision or congestion within the locality. There have been no objections from the Highways Authority, subject to the imposition of conditions. Although the application site is located within Flood Zone 3, it is considered that conditions can be imposed to prevent flood risk and to protect the aquatic environment and Yorkshire Water infrastructure.
- 14.3 It is considered that the change of use of a site allocated for Economic Growth to a hand car wash is entirely appropriate in this location. It is not considered that these plans would result in any significant adverse issues in terms of noise disturbance. As such, the proposal accords with the requirements of policies CS1, CS2, CS3, CS7, CS8, CS13 and CS18 of the Core Strategy and the wider National Planning Policy Framework.

15.0 **RECOMMENDATION**

- 15.1 That the application be **GRANTED** subject to the following conditions:

Conditions

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

2. All external dimensions and elevational treatments shall be as shown on the approved plans, with the exception of any approved non material amendment.
3. Prior to the facility being brought into use, the applicant shall submit a scheme to the local authority for written approval showing parking, turning, bin storage/dwell area and means to prevent water from escaping out onto the public highway. The approved details shall be implemented in full prior to the proposed car wash facility being brought into use.
4. The hours of operation shall be between 08:00 and 18:00 on Monday to Fridays, between 08:00 and 13:00 on Saturdays and Sundays, with no operation on public holidays.
5. No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-
 - a) evidence of existing positive drainage to public sewer and the current points of connection; and
 - b) the means of storing and attenuating the restricting the surface water discharge to public sewer have been submitted to and approved by the Local Planning Authority.Furthermore, unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.
6. Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel , areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil, petrol and grit interceptor /separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network.

7. No development shall take place until amended drainage details have been submitted to the local authority for approval in writing. The submitted details shall show the following;
 - a) foul and surface water drainage proposals both on and off site;
 - b) evidence of existing impermeable areas positively draining to the public sewer to prove rate of discharge; and
 - c) surface water storage and the flow control rate.

Reasons for Conditions

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009. In the interests of residential amenities.
3. In the interests of highway safety
4. In the interests of the residential amenities of neighbouring properties
5. To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage
6. To prevent pollution of the aquatic environment and protect the public sewer network
7. In the interests of sustainable drainage

Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

2. Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Contravention of the provisions of section 111 is a criminal offence. Surface water run-off from areas of vehicular parking and/or hardstanding etc. must pass through an oil, petrol and grit interceptor/separator of adequate design before any discharge to the public sewer network. Roof water should not pass through the traditional 'stage' or full retention type of interceptor/separator. It is imperative, however that surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used is not discharged to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design before discharge to the public foul or combined sewer network. It is good drainage practice for any interceptor/separator to be located upstream of any on-site balancing, storage or other means of flow attenuation that may be required.
3. Trade effluent may only be discharged to sewer with the prior consent of Yorkshire Water. A trade effluent is any liquid, other than domestic sewage, which is wholly or partly produced in the course of any business. The Industrial Waste Manager should be contacted as soon as possible regarding the acceptability of any proposals which may involve a trade effluent (including vehicle washwater) or contaminated surface water discharge. The developer should consult with Yorkshire Water's Industrial Waste Section (telephone 0345 1242424).

4. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com