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File No: CHE/18/00557/FUL
Plot No: 2/151 1516

ITEM 2

CHANGE OF USE TO HAND CAR WASH AT LAND TO THE REAR OF 34 CHATSWORTH ROAD, CHESTERFIELD

1.0 CONSULTATIONS

Highways DCC	No objection following clarifications sought – see report.
Ward Members	No comments received.
Forward Planning	No objections
Yorkshire Water Services	No comments
Environmental Services	No objection.
Design Services	No objection, subject to consultation with Yorkshire Water.
Neighbours	1 comment received

1.1 The proposal was publicised by neighbour letters.

2.0 SITE LOCATION AND DESCRIPTION

2.1 The site was previously a car sales garage, which was classified as a Sui Generis use. The previous business included a building sited on Chatsworth Road and Clarence Street although the part of the site that this site relates to is the rear yard. This site is surrounded by Wheatbridge Road to the south, Tap Lane to the west and Clarence Street to the east. To the south is a large modern three storey building which is used as a Doctors Surgery and other health-related uses. To the west is a modern single storey building which houses a group of shops and car parking. The buildings to the north of the site are older buildings and these are used as a selection of shops which have frontages onto Chatsworth Road. The building fronting onto Chatsworth Road, previously attached to this site, is currently proposed to be a bar, although this planning application is still pending. This building has been

split up into two, with the rear part of the building converted into a car tyre sales shop/ fitting bay. Permission has not been sought for this by the business owners, but they have been informed that it is required. The land to the rear of the tyre shop would be under the control of the tyre shop however the application site only includes the strip of land to the west of the overall area.

2.2 The site is currently not been used for the proposed use however the boundary treatments, containers and other changes have already been completed. The proposed exit onto Wheatbridge Road has not been completed.

2.3 The site is within the Chatsworth Road District Centre which has a wide range of uses in the area including shops, beauty salons, public houses and cafes and restaurants.

3.0 SITE HISTORY

3.1 CHE/17/00082/COU - Change of use to provide a hand-washed car cleaning service – Conditional Permission – 05/05/17. Application approved with a condition for proposed boundary treatments and other proposed works completed within 6 months of approval.

3.2 CHE/18/00540/FUL - Conversion of the former car sales showroom into A1 (sui generis) use class to A4 drinking establishment with ancillary food use – Pending determination

3.3 CHE/18/00541/ADV - 1 fascia sign located over the Clarence Street main entrance and 1 fascia sign located over the Chatsworth Road elevation access. Other manifestation signs to windows on the Chatsworth Road elevation. 1 Mural on the eastern elevation (drawings received 08/10/18),.3 other internally-illuminated poster box signs on the Clarence Road Elevation. – Pending determination

4.0 THE PROPOSAL

4.1 The proposal is for a hand car wash facility on site which is a sui generis use. This includes two containers and two sections of fencing positioned on the site boundaries. The sections of fence would be approximately 1.5m in height at their highest points, with steel panels and posts with “foamex grafix inlay panels” on them. On top of the steel panels there will be curved Perspex tops. The fence to the west of the site would be 19.8m in length and to the east it would be 11.8m long. The fence panels

have white backgrounds with blue “bubbles” on. The two containers are on site and would be 6m in length, 2.5m in width and 2.5m in height and which have been painted blue.

- 4.2 The site entrance would be from Tap Lane, to the north-west of the site, and this would utilise an existing dropped curb entrance. The exit from the site would be onto Wheatbridge Road. It is proposed to put several entrance and exit signs on site to ensure that the proposed direction of traffic flow is adhered to.
- 4.3 Adverts are not part of this application.
- 4.4 The application has been altered on several occasions, with the red line, positioning of the exits/entrances and containers and design and size of the fences.

5.0 CONSIDERATONS

5.1 The Development Plan

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Local Plan Core Strategy.

5.3 Chesterfield Local Plan: Core Strategy 2011 -2031 ('Core Strategy')

CS1	Spatial Strategy
CS2	Principles for Location of Development
CS3	Presumption in Favour of Sustainable Development
CS4	Infrastructure Delivery
CS6	Sustainable Design and Construction
CS7	Management of the Water Cycle
CS8	Environmental Quality
CS13	Economic Growth

CS15	Vitality and Viability of Centres
CS18	Design
CS19	Historic Environment
CS20	Influencing the Demand for Travel
PS2	Chatsworth Road

5.4 **National Planning Policies**

In relation to the revised NPPF 2018 it is considered that the following sections will be of relevance –

- 6. Building a strong, competitive economy.
- 7. Ensuring the vitality of town centres.
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 16. Conserving and enhancing the historic environment

6.0 **Key Issues**

- 1 Principle Of Development**
- 2 Design and Visual Amenity**
- 3 Residential Amenity**
- 4 Highway Safety and Parking Provision**
- 5 Flooding**

1. Principle of Development

- 6.1 The proposal is for a use of land within a District Centre (Chatsworth Road) designated in the Chesterfield Local Plan: Core Strategy 2011-2031 (CLPCS) and shown on the Regulation 22(1) (b) Submission Policies Map. The site is located in an area at high probability of fluvial flooding from the rivers Hipper and Holme (Flood Zone 3). The planning history shows an extant permission in 2017 (referenced

CHE/17/00082/COU) for a car wash use. The adjoining metal clad building to the east northern half has a pending planning application for an A4 Drinking Establishment with 'ancillary food use'. The remaining element of this building appears vacant and potentially to have a null use should the northern part of the building gain permission. The site sits on a busy road with a mixed character of commercial and community land uses with some large buildings of differing design and materials nearby (the Wheatbridge Health Centre and Matalan) and smaller retail units to the west within a low rise retail development.

- 6.2 A hand car wash is similar to car valeting and where interior cleaning occurs and which would arguably be in effect, car valeting. Car valeting has been judged by some planning inspectors to fall into the use class B1(c) light industry as it involves washing and cleaning, where no 'noisy machinery or tools' are to be used. It is more likely that the use falls within the B1(c) land use class as opposed to being 'sui generis' (not falling within any use class) given its character. In either case the use would not be categorised as a main town centre use by the Core Strategy (pg70) and similarly would not be a main town centre use as defined by the NPPF (Appendix 2: Glossary).
- 6.3 The Core Strategy does support some non-main town centre uses but the list does not include the type of development proposed. Whilst this is the case Local Plans do not cater for all eventualities and whilst the proposal is in effect a departure from the Local Plan in that it is not a main town centre use, it is still appropriate to consider whether or not the proposed use will be consistent with the main theme of Core Strategy policy CS15, namely that 'New development should make a positive contribution to the centre's viability and vitality and be of an appropriate scale.
- 6.4 Having regard to the former uses of the site (car sales and servicing) it is unlikely that the proposal will result in a negative effect on vitality and viability, on balance. The effect of the proposal is likely to be similar to that of the former uses (car sales and servicing). A positive impact beyond some minor effects resulting from linked trips, greater variety of services and the avoidance of dereliction of a prominent site (should alternative town centre uses prove 'undeliverable') is unlikely. However, any minor benefit could be overridden should any potential negative effects not be adequately mitigated e.g. noise, spray, highways safety, traffic flow, visual amenity and urban design. The proposal would not conflict with criterion (a) of Core Strategy policy CS13 and criteria (c), (d)

and (e). There is likely to be no worsening of the existing situation in respect of criterion (b).

- 6.5 The proposal would generate some employment albeit low waged and this weighs to a limited degree in favour of the development (Core Strategy policy CS13).
- 6.6 The proposal on balance would satisfy the requirements of the NPPF in that it can have a neutral if not slightly positive effect on the vitality and viability of a town centres (Chapter 7) provided impacts are mitigated adequately. A flood risk assessment is required by the NPPF (para 164 and footnote 50) and EA guidance.
- 6.7 The proposal is within a district centre which has a wide range of uses. The approval of this proposal would ensure that the site is open and in business use. The Chatsworth Road area does not have many hand car wash businesses and this usage would add to the mix of the existing variety of usage types in the area. It is an appropriate size and usage for this location and will add to the vitality and vibrancy of the district centre. This ensures that it is acceptable in comparison to policies CS2 and CS15.

2. Design and Visual Amenity

- 6.8 In accordance with Core Strategy Policy CS18 all new development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context. In doing so developments are expected to respect the character, form and setting of the site and surrounding area; having regard to its function, appearance, scale and massing.
- 6.9 As mentioned previously details of the scheme have been amended/clarified on several occasions, with the applicant/agent to find a scheme that was acceptable.
- 6.10 The area surrounding the site has a wide selection of uses, such as public houses, pharmacy, doctor's surgery, hairdressers, shops, restaurants, cafes and beauty salons. These uses have advertisements and different types of facades to attract customers to their businesses and make them stand out. The previous long term use on site was for a car sales business, although there was a 6-9 month period of time where a different car wash business was based on site (different site boundaries). The previous business submitted a planning application

and received permission under the agreement that they would complete external works within 6 months including a surrounding wall and improving the appearance of their containers. The applicants of that proposal chose not to complete the works and left the site after approximately 6 months of the approval. The previous business on site was considered to be inappropriate in visual terms in the local area, due to the condition of the containers and other aspects of the business.

6.11 The current application includes boundary treatment and container details, to ensure that they are completed to an acceptable standard and these works have already been undertaken on site. The site has been tidied and is a big improvement to the state of the site previous as shown below:



6.12 The containers and the fence have been completed to a good standard and they are considered to be in-keeping within the surrounding area. The fences on site are required to enclose the business, but also to prevent overspray from the business operations onto pavements and the highway. They include a curved Perspex section on top of the steel sections. There are no other comparable fences within the area since car parks on larger sites have soft landscaping or bollards on the edges.

As this is quite a small site for a car wash it is important for the space to be appropriately utilized in an efficiently way and the fence will help do this. The design and colour of the fence is considered to be acceptable for the site and its surrounding area.

- 6.13 The proposal is unlikely to have an adverse effect on amenity levels in the locality. It is not considered that there are any significant impacts upon the surrounding area from a hand car wash. The proposal would therefore accord with policies CS2 and CS18 in respect of design and amenity.

3. Residential Amenity

- 6.14 In terms of residential amenity the area is dominated by businesses, with the site surrounded by non-residential uses on all sides. In terms of noise any impact from a car wash is expected to be minimal and the surrounding receptors currently have the existing noise levels associated with the traffic generated from the busy through roads of Chatsworth Road and Wheatbridge Road. In terms of the potential spray from the business, the positioning of the 2.5m high containers and a 1.5m high fence to the west of the site ensure that there is plenty of protection from spray for pedestrians on the footpath on Tap Lane. There is the potential for spray onto pedestrians on the footpath to the south of the site on Wheatbridge Road, but the main car washing area is to the centre of the site, so whilst there may be some spray it has a reasonable distance to travel before reaching this point. There is also a fence adjoining the business to the east, this will prevent some overspray onto cars parked within their car park. It is considered that the proposal will not lead to significant impact on residential amenity in the area.

4. Highway Safety and Parking Provision

- 6.15 The County Highways Authority comment that *“Since the submission of the application revised plans have been deposited and please be aware that these comments are given on drawing S/01/P03D which it is understood is the latest drawing. From initially being the whole of the site to the rear of No. 34 Chatsworth Road the proposal now is that the car wash will operate in approximately half of this area with the rest currently being occupied by a tyre operation. The entrance to the site is proposed from Tap Lane with a new exit being formed to Wheatbridge Road. The exit should be located as close as possible to the fence between the proposed car wash and the tyre operation whilst maintaining visibility. In addition, it should be constructed as a vehicular dropped crossing rather*

than kerbed radii. Full details of layout and construction will be required. It is noted that a section of the fence at the Wheatbridge Road end of the site has been lowered in order that adequate visibility is provided. It is noted that the remainder of the fence is 1300mm and I would ask whether you are satisfied with this measure, basically in terms of height, to protect users of the adjacent publicly maintainable highway from spray etc. Opposite the site entrance a traffic sign will be required indicating that Wheatbridge Road is subject to one-way traffic as opposite Tap Lane and Clarence Street. Full details of this will be required, siting agreed and sign erected prior to the operation of the car wash commencing. Right turn signs are indicated which would be required and located within the site boundary at the proposed exit, although no specific detail has been provided. Such details shall be submitted, agreed and the sign erected prior to the operation of the car wash. It is also recommended that surface marking are included in the form of wording and/or arrow. It is indicated that the existing sign is to remain although no details as to wording on the signage, whether illuminated or not have been submitted.

- 6.16 The comments provided by the highways authority were provided prior to revised plans being submitted, but then were amended to take account of revised drawings. On the site visit the fencing appeared to be different to that shown on the plans. The end of the fence was setback several metres from the footpath and road, to ensure that adequate visibility could be achieved in the critical direction from the eastern side of Wheatbridge Road.
- 6.17 It is proposed that vehicles will enter the site from Tap lane and exit the site onto Wheatbridge Road. If the business is at full capacity and vehicles are queued coming into the site then Tap Lane is considered to be a safer option than Wheatbridge Road. It is considered that conditions are required for the signage (both on site and off-site) and markings to ensure the facility operates in a safe manner.
- 6.18 It is considered that the highway network in the surrounding area is a little confusing as a result of the linking two way roads between Wheatbridge Road and Chatsworth Road (Tap Lane and Clarence Street). It is considered that the biggest highway safety issue is the potential for vehicles entering the site via the proposed exit to Wheatbridge Road and which could affect the flow of vehicles through the site and along the one way Wheatbridge Road. Also, drivers of vehicles exiting the site must turn right and it will be crucial in respect of

the placing of signs and markings on site and designing the exit to discourage inappropriate highway manoeuvres.

- 6.19 It is concluded that some information has been provided in terms of signage and the new exit but that more information is required. It is considered that conditions can deal with these issues such that it can be ensured that the proposal would not lead to a material adverse effect on highway safety or traffic flow and as such would accord with Core Strategy policies CS18 and CS20 and the revised NPPF.

5. Flooding

- 6.20 The proposal is within flood risk zone 3 but not within functional flood plain. The relevant Environment Agency (EA) guidance indicates that the sequential test in relation to flood risk is not applicable given that the proposal is for a change of use. The 'vulnerability' classification of the site in terms of land use will remain as 'less vulnerable' and an 'exception test' is not required. The relevant EA guidance indicates that a flood risk assessment is necessary and there is no evidence that an exception for this requirement applies to the proposal. In light of this, whilst the proposal would not conflict with criterion (i), (iii) and (iv) of Core Strategy policy CS7, it is not clear if the proposal would fully meet the requirements of criterion (ii). In terms of detail, the proposal is lacking in an assessment of risk to the new use from flooding and also on any reasonable mitigation measures. Whilst at a strategic level risk would not be materially more than at present, at a detailed level the new use reasonably ought to take into account flood risk and mitigation. The proposal in broad terms would not conflict with policy CS2 subject to its potential impacts being mitigated and flood risk being adequately addressed.
- 6.21 The Council's Design Services Team and Yorkshire Water have been consulted on the proposal. The Design Services Team has commented that the site is within flood zone 3, but that a flood risk assessment is not required because the proposed use is unlikely to be affected by the risk of flooding. The applicant would also be required to obtain a trade effluent licence from Yorkshire Water. Yorkshire Water has not formally responded, but during correspondence they commented that there is a combined sewer crossing the site, and that the positioning of a container over this is not preferable. They also commented that a trade effluent licence would be required. No more information has been provided by them. They have not formally objected.

6.22 It is considered that the risks of flooding are appropriately mitigated by the open character of the use and the use proposed.

7.0 **REPRESENTATIONS**

7.1 One objection has been received on behalf of Rontec Roadside Retail business, which is based at Meridien House, 69-71 Clarendon Road, Watford. It is unclear what relationship this business has with this site, but it is assumed that they have business interests in the local area.

7.2 They objected on the grounds of the issues related to drainage, noise nuisance, spray, traffic and parking. In terms of drainage; they consider that *“Adequate details have not been provided with the application as to how the water runoff and chemicals from the washed vehicles will be dealt with, particularly in respect of silt traps, interceptors or drainage gulleys. No information is supplied as to whether the existing drainage at the site will be adequate to cope with the water run-off, or even whether it is in a position to be able to capture the run-off from the new use.*

The application site also lies within flood zone 3 and the application should be accompanied by a flood risk assessment.” In terms of noise nuisance and spray they consider that *“there is no noise assessment accompanying the application to assess the noise impact of the car wash equipment on the adjacent properties and customers using the facility. Equipment such as jet washes and vacuums can generate high levels of noise causing a nuisance. An assessment of these impacts and proposals for any mitigating noise attenuation measures should accompany the application. There are also existing footpaths abutting the boundaries of the site. The application does not propose adequate measures to protect pedestrians from overspray from the car wash use.”* In terms of traffic and parking they considered that *“the plans accompanying the application do not provide adequate details of the proposed means of vehicular access. The application is not accompanied by any transport assessment of the likely traffic movements associated with the proposed uses. No assessment has been undertaken as to whether the existing and proposed vehicular accesses are adequate to cope with these additional movements and no assessment has been made of the implications for adjoining roads. The application does not provide any details of the proposed vehicle circulation within the site and how cars of the users of the car wash will be accommodated. No details or assessment has been provided of the car parking arrangements for the users and staff of the car wash*

operators. Derbyshire County Council Highways department have previously objected to the proposed use and access in this location.

7.3 **Comments:**

- **Water runoff – the Council’s drainage team were consulted on the scheme and considered that the proposed drainage on site is acceptable for this use.**
- **Chemical runoff – the Council’s drainage team were consulted on the proposal and it was considered that a trade effluent license would be required for the proposal. A note will be included on any permission issued.**
- **Flood zone 3 – the Council’s drainage team commented that a flood risk assessment was not required.**
- **Requirement for a noise assessment – the site is not surrounded by residential dwellings and a noise assessment was not required or requested in this case. These are required on a case-by-case basis.**
- **Overspray from car wash onto footpaths – The fences surrounding the site have been increased in height to include a section of Perspex, although the containers have now been moved to be next to the western boundary. This will provide adequate protection for spray.**
- **Vehicular accesses – The highways authority has responded as referred to above.**
- **Transport assessment – An assessment is not required in this case.**
- **Car parking for staff – The site is within a district centre and there is on-street parking within the surrounding area.**
- **Derbyshire County Council objection – The Highways Authority do not object to the proposal.**

8.0 **HUMAN RIGHTS ACT 1998**

8.1 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.

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application. The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary. The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.

8.3 The interference caused by a refusal, approval or approval with conditions, based solely on planning merits, impairs as little as possible with the qualified rights or freedoms of the applicant, an objector or consideration of the wider Public Interest.

8.4 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.

9.0 **CONCLUSIONS**

9.1 The development is an appropriate use of land and subject to conditions would be in accordance with the Development Plan and NPPF. There are no other material considerations of sufficient weight to warrant a determination not in accordance with the Development Plan and NPPF.

9.2 Statement of Positive and Proactive Working With Applicants

9.3 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 paragraph 38 of the July 2018 National Planning Policy Framework (NPPF).

9.4 Given that the proposed development would not conflict with the revised NPPF (July 2018) and 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 been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

10.0 **RECOMMENDATION**

10.1 That the application be **GRANTED PERMISSION** subject to the following conditions:

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

Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.

2. All external dimensions and elevational treatments shall be as shown on the approved plans:

- Proposed Elevation and Site Plan Drawing no. S/01/P03F
- Proposed Cabin and details Drawing no.S/01/P04D
- Site Location Plan drawing no. S/01/P01B
- Design and Access Statement
- Existing Elevation and Site Plan

with the exception of any approved non material amendment.

Reason - 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.

3. Prior to the commencement of car washing operations full construction details regarding the vehicular access to Wheatbridge Road shall be submitted for approval. Thereafter, the crossing shall be constructed in accordance with the approved conditions.

Reason – In the interests of highway safety.

4. Prior to the commencement of car washing operations a new vehicular exit of 4.0m width of standard splayed design shall be formed to Wheatbridge Road and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 47 metres to the east measured along the nearside carriageway edge in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility

sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

5. The means of protecting highway users from spray associated with the car wash operation, as shown in the application submission shall be implemented prior to the commencement of car washing operations being taken into use and which shall be retained thereafter.

Reason – In the interests of highway safety.

6. Prior to the commencement of car washing operations full details of signage indicating right turn only out of the site, entry and exit arrangements shall be submitted to and agreed, in writing, by the Local Planning Authority in consultation with the Highway Authority and then implemented on site in accordance with the agreed scheme.

Reason – In the interests of highway safety.

7. Prior to cash wash operations commencing on site the entry and no entry signs shall be erected as described and a one-way system maintained through the site for the life of the development.

Reason – In the interests of highway safety.

Notes

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp
E-mail highways.hub@derbyshire.gov.uk or
Telephone Call Derbyshire on 01629 533190.

2. The Highway Authority recommends that the first 5m of the proposed access should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
3. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
5. The applicant will need to contact Yorkshire Water in order to obtain a trade effluent licence.