

REPORT OF CHIEF PLANNER

Site Of Apollo Hotel PH, Hucknall Lane

1 SUMMARY

Application No: 17/00660/PFUL3 for planning permission

Application by: Mr Max Cully on behalf of Mr M Barker

Proposal: Continued use of hand car wash with canopies, associated storage containers, catering van serving hot food and drink and with associated customer seating area.

The application is brought to Committee at the written request of Ward Councillors.

To meet the Council's Performance Targets this application should have been determined by 4th September 2017.

2 RECOMMENDATION

REFUSE PERMISSION for the reasons set out in the draft decision notice at the end of this report.

3 BACKGROUND

- 3.1 The application site is the site of the former Apollo Hotel and public house on Hucknall Lane. The buildings were demolished in 2012 when the site was cleared. There is a weldmesh security fence along the boundary of the site with Hucknall Road. There are close-boarded timber fences and concrete panel fences to the other boundaries.
- 3.2 There are residential properties on Ventura Drive to the north and adjoining the east/rear boundary of the site. There is a tyre centre and electrical factors businesses to the south of the site on Saxondale Court.
- 3.3 Planning permission for the use of part of the application site as a hand car wash was granted temporary consent for three years on 22 August 2013 and expired on 22 August 2016 without a further planning application being made for the continued authorisation of this use. In addition to the on-going use of the site as a car wash, it had also been noted that a number of additional storage containers and a mobile catering van serving hot and cold food had been located on the site, and a range of vehicles were also being stored on the site, without planning permission. It was therefore considered that a breach of planning control had occurred and that it was expedient to serve an enforcement notice requiring the cessation of all uses and the removal of all containers, vehicles, car wash canopies and equipment from the site. The enforcement notice took effect on 24 March 2017 and allowed for a period of one month for compliance. Whilst a planning appeal against the requirements of this notice was submitted, the associated fee was not paid and the appeal lapsed.

- 3.4 At the present time, all activities on the site are unauthorised and are taking place in breach of the enforcement notice. Prior to the service of the enforcement notice the applicant had not engaged with officers in an attempt to resolve the concerns that have been raised. The current application was lodged shortly after the appeal lapsed, and seeks to authorise the activities being enforced against, subject to appropriate controls/amendments. During the life of this application, officers have been in discussions with the applicant to secure amendments that aim to address these concerns.

4 DETAILS OF THE PROPOSAL

The application proposes the continued use of the land as a hand car wash with canopies, associated storage containers, a catering van serving hot food and drink and with an associated customer seating area. The car wash area and canopies are located towards the southern boundary of the site with the neighbouring tyre centre business. The storage units are sited between the rear of the car wash area and the eastern/rear boundary of the site with neighbouring residential properties off Ventura Drive. The catering van and associated customer seating are located centrally and towards the Hucknall Lane boundary of the site. There is existing vehicle access from Hucknall Lane.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

181-199(o) Hucknall Lane
1, 7, 9, 11, 12, 14-17, 18, 22 Ventura Drive
3 Saxondale Court

Ward Councillor: Strongly object. The site is an eyesore and the smell from behind the container is disgusting. Feel that concerns of local residents should be supported and that the blatant disregard of any request to comply with the planning regulations should be actioned by enforcement.

Neighbour: Objection. The car wash is open and operational 365 days. Blasting sound from the jet wash is constant from 8am to 6pm, 7 days a week. This constant noise does make me (and my family) both anxious and at times annoyed. We are unable to enjoy the garden at any time. We have to keep the rear windows and patio doors closed whilst in the house to try to block out the constant noise. In addition, staff at the site play music very loudly, sometimes as early as 7.30am in the morning. Customers have also been known to be playing their own music as well.

There are a number of storage containers along with a number of single decker buses, double decker buses, a horse trailer and caravans. These vehicles have been parked beside the fence in front of our semi-detached house. They have only recently moved some of the bigger vehicles but I remain unhappy with all of these vehicles being parked so close to my property, especially when people do stay in the caravan overnight. Cars and vans have frequently been put up for sale on the site increasing the number of people visiting the property, thereby increasing the noise and traffic levels further. It sometimes feels more like we are living next door to a second hand car sales facility.

Neighbour: Objection. I objected to the original application in 2013, and have also had numerous causes to complain about the development of the site since 2012. The car wash is an eyesore and a nuisance to all that live near it. I no longer have the ability to use my back garden unless the car wash is closed due to the noise from it, and it looks extremely untidy and unkempt. The sound of the jet washes they use can be heard through closed windows, even while the TV is on or music is playing. The car wash operates outside of its permitted hours and the hot food van opens even earlier - usually just after 7am. The hours of operation mean that people are on site 7 days a week anytime from 7am causing noise and disturbance for residents - with the storage units being opened and closed, equipment being dragged along the ground, and employees shouting to each other. Noise is also caused by car radios being played while the cars are being cleaned. There are floodlights installed on the canopies which shine directly in to mine and others windows, and are being left on overnight. There is no toilet on the site and there have been many occasions when my fence has been used by the men working there. Vehicles are also sold and stored on the site for indefinite amounts of time. Other goods such as vegetables and Christmas trees are also sold from the site on regular occasions.

The owner has always shown a complete disregard for planning permission requirements and conditions placed on the car washes operation. I am extremely disappointed by the apparent lack of action taken by the local authority to the significant breaches of permission and conditions and, if the Planning Officer recommendation is to grant the permission, then I would like to request that Planning Committee members be encouraged to carry out a site visit to look at the state of the site and hear first-hand the noise that is caused before the application is determined. If permission is to be granted then stronger conditions regarding the opening hours at weekends and Bank Holidays need to be imposed and enforced although, ideally, I would like the outcome to be rejection of the application for the grounds stated above.

Neighbour: Objection. I have had much trouble from this above site with people misusing space between storage containers and the rear of my property. Rubbish has been thrown into my garden and there are bad smells. Food waste on the site causing vermin in the garden and garden sheds. Loud music has been played all day and levels of noise has affected my sleep. The containers on the back on my garden fence should be removed as soon as possible and the selling of food should be stopped. Noise and music should be reduced.

Neighbour: Objection. Three storage containers are positioned against my fence and would be better placed on the side that backs onto Ventura Drive. There has been increased evidence of vermin that I suspect are attracted by rubbish from the burger van.

Additional consultation letters sent to:

Environmental Health: No objection.

Highways: No objection. As any permission given is likely to be temporary, this will give us opportunity to monitor the situation.

6 RELEVANT POLICIES AND GUIDANCE

Nottingham Local Plan (November 2005):

NE9 - Pollution

Aligned Core Strategy (September 2014)

Policy 10 - Design and Enhancing Local Identity

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issue

- (i) Whether the continued use, layout and appearance of the development is appropriate in relation to the amenity of neighbouring residential properties and the wider area.

- 7.1 The operations on the site have increased since the grant of temporary planning permission for the car wash in August 2013, including an increased number of storage containers, siting of a mobile catering van serving hot and cold food, and a range of vehicles also being stored on the site.
- 7.2 The planning permission previously granted was for a conditional temporary period to avoid prejudicing the long-term redevelopment of the site for an appropriate permanent development. To date no planning application for the redevelopment of the site has been made and this is not considered likely in the near future. The further conditions of the planning permission required that the car wash use be carried out within the designated car wash area; that it be open to customers within specified hours of use; that noise levels should not exceed a specified level; and that an approved landscaping scheme be implemented within three months of the first use of the car wash. It is clear from the responses of neighbouring residents and the Ward Councillor that there are a range of issues in relation to the operation of the previously approved and expanded uses that are impacting upon the amenity of those residents.
- 7.3 The issues raised have been examined further at a site meeting with the applicant, leading to a request for amendments, which, in the opinion of officers, would address the concerns leading to the enforcement notice. These include the removal of a number of containers, restrictions on the use of the area closest to the boundary, the relocation of jet wash equipment away from this area, the provision of toilets/amenity facilities for customers/staff, and the shielding of floodlighting.
- 7.4 To date the applicant has not amended the application and it is therefore considered that planning permission should be refused on the grounds that the unauthorised on-going uses of the site are having a detrimental impact upon the amenity of neighbouring residential properties contrary to Policies NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies. Further enforcement action
- 7.5 It is noted that the Highways and Environmental Health teams have no objections to the proposed development.

8. SUSTAINABILITY / BIODIVERSITY

None.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

The issues raised in this report are primarily ones of planning judgement. Should legal considerations arise these will be addressed at the meeting.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

None.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 VALUE FOR MONEY

None.

16 List of background papers other than published works or those disclosing confidential or exempt information

1. Application No: 17/00660/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ONB4T2LYLEI00>

2. Highways, 26.7.17

3. Environmental Health, 25.7.17

4. Ward Councillor, 3.8.17

5. Neighbour, 2.8.17

6. Neighbour, 3.8.17

7. Neighbour, 3.8.17

8. Neighbour, 15.8.17

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Aligned Core Strategy (September 2014)

Contact Officer:

Mr Jim Rae, Case Officer, Development Management.

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My Ref: 17/00660/PFUL3 (PP-05938222)
Your Ref:
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Date of decision:

**TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION**

Application No: 17/00660/PFUL3 (PP-05938222)
Application by: Mr M Barker
Location: Site Of Apollo Hotel PH, Hucknall Lane, Nottingham
Proposal: Continued use of hand car wash with canopies, associated storage containers, catering van serving hot food and drink and with associated customer seating area.

Nottingham City Council as Local Planning Authority hereby **REFUSES PLANNING PERMISSION** for the development described in the above application for the following reason(s):-

1. The continued use of the site for the proposed uses is detrimental to the amenity of neighbouring residential properties by virtue of the level of activity being carried out on the site in close proximity to these neighbouring properties, including the position and use of storage containers in association with the hand car wash use; access, storage of rubbish and other materials in the areas to the rear of the containers; floodlighting under the car wash canopies; and noise from the operation of the car wash including generators and staff/customer recorded music. It is therefore considered that the continued use of the site for the proposed uses would be contrary to Policy 10 of the Aligned Core Strategies and Policy NE9 of the Nottingham Local Plan.
2. The continued use of the site for the proposed uses is detrimental to the visual amenity of the area by virtue of the disorganised and untidy appearance of the site when viewed from Hucknall Lane and Ventura Drive, including the number and position of storage containers; catering van and associated customer seating; and range of vehicles that are being stored on the site for long periods of time. It is therefore considered that the continued use of the site for the proposed uses would be contrary to Policy 10 of the Aligned Core Strategies.

Notes

Your attention is drawn to the rights of appeal set out on the attached sheet.



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Not for issue

Continued...

RIGHTS OF APPEAL

Application No: 17/00660/PFUL3 (PP-05938222)

If the applicant is aggrieved by the decision of the City Council to refuse permission for the proposed development, then he or she can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be submitted within six months of the date of this notice. You can obtain an appeal form from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Appeal forms can also be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>. Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal online. You can find the service through the Appeals area of the Planning Portal - see www.planningportal.gov.uk/pes.

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

PURCHASE NOTICES

If either the City Council or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.