

REPORT OF CHIEF PLANNER

Site Of Apollo Hotel PH, Hucknall Lane

1 SUMMARY

Application No: 18/00809/PFUL3 for planning permission

Application by: Reynolds Associates Mr Keith Reynolds on behalf of Mr M Barker

Proposal: Use of land as hand car wash with canopies, associated storage containers, relocated pump unit, acoustic fence, catering van serving hot food and drink and with associated customer seating area, bin store and portable toilets. (Resubmission)

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

To meet the Council's Performance Targets this application should

2 RECOMMENDATIONS

GRANT PLANNING PERMISSION for a temporary period of 1 year and subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Chief Planner.

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 remain unauthorised and are taking place in breach of the enforcement notice. Prosecution proceedings have commenced, however following some progression towards compliance with the enforcement notice including the removal of a number of storage containers and all surplus vehicles from the site these have been held in abeyance. The current application was also lodged and seeks to authorise the activities being enforced against, subject to appropriate controls/amendments.

4 DETAILS OF THE PROPOSAL

The application proposes the 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 containers are to be relocated from their existing position on the boundary with neighbouring residential properties off Ventura Drive to a central position to the north of the car wash area. A 2.6m high acoustic fence is proposed to be erected to the rear of the car wash area and on a line 5m from the rear boundary of the site with these neighbouring residential properties. The proposed catering van and associated customer seating are to be located centrally and towards the Hucknall Lane boundary of the site. A bin store area and portable toilet are proposed to be located adjacent to the catering van. Vehicle access is via an existing gated entrance on 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

Neighbour: Objection. Although the agent is stating that improvements will be made, and some containers and vehicles have been removed, I do not feel that this will prevent the noise nuisance and complete disregard for neighbouring properties that are currently an issue.

Despite the planning condition intended to control hours of use, the car wash opens at 8am 7 days a week and has done since it opened in 2013. This means that the workers are on site any time from 7am opening containers, dragging equipment across the ground and shouting to each other creating noise. 8am is not an appropriate opening time at weekends due to the disturbance the workers cause in getting the site ready. No amount of staff notices will change a culture that has already been in place for 5 years. The Council have done nothing to remedy this in the last 5 years that the car wash has been open, and has taken very little apparent action since the whole development started causing problems in 2012.

People in the area have no faith that the car wash or Council will take any action to ensure that the amendments to the site will reduce the impact on residents and put further remedies in place if they don't. It is extremely disappointing to see that

people can continually breach local plans and planning obligations with absolutely no consequence and cause problems for residents that just want a quiet life.

Neighbour: Objection. The car wash always makes a mess and noise. Large storage containers are positioned on the boundary with residential properties and there have been instances of vermin in gardens. Residents are fed up with this business.

Neighbour: Objection. Have experienced many problems including noise and loud music; mess and smells; vermin; large storage containers on boundary producing damp; deterring use of garden, causing stress, and affecting general health. Main concern is that business removes the storage containers from the boundary and stops making noise and playing loud music.

Additional consultation letters sent to:

Ward Councillors: The three councillors in Bulwell Ward wish to register our opposition to the application. We rejected the first application for good reasons and nothing has changed since then to change our view. If anything the applicant's behaviour has compounded our view by showing a complete disregard for the impact on nearby residents from noise, smells and antisocial behaviour by workers. Query if the site has the necessary hygiene certificates and whether staff have been appropriately trained. The applicant has also shown a tendency to increase his facilities over time without permission and cannot see that this would change.

Environmental Health: Appears that most of the neighbour objections have been channelled through Planning rather than to Environmental Health or Community Protection Officers. Acknowledge that there is local concern regarding the environmental impact of the proposed use. Whilst the reconfiguration of the site and other mitigation being proposed may address many of these concerns, this is dependent upon continued good supervision and site management which the operator has not been able to demonstrate throughout the operations carried out to date, including a need for some improvements to food hygiene at the catering van. Planning conditions regarding noise and hours of operation would require continued monitoring and are typically difficult to control on car wash uses. Would therefore support the refusal of the application to continue the use or would urge the consideration of further measures to reduce the impact of the use upon the locality.

Highways: No objection. The site has been operating for a number of years without any particular highway issues associated with its operation.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan, which are set out in the report, the NPPF is a material consideration in the assessment of this application.
- 6.2 The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications. Of particular relevance to this application is the need to

secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and to contribute to conserving and enhancing the natural environment and support the transition to a low carbon future.

- 6.3 Paragraphs 56-64 of the NPPF sets out the approach for achieving good quality design, including responding to local character, creating a strong sense of place and resisting poor design that fails to take opportunities to improve the character and the quality of an area.
- 6.4 Paragraph 96 states that new development should be expected to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.
- 6.5 Paragraph 111 states that planning decisions should encourage the effective use of land by re-using land that has been previously developed.
- 6.6 Paragraph 123 states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
- 6.7 Annex 1 states that the NPPF aims to strengthen local decision making and reinforce the importance of up-to-date plans. For the purpose of decision-taking, the policies in the Local Plan should not be considered out-of-date and are to be afforded weight in accordance with their conformity with the NPPF.

Nottingham Local Plan (November 2005):

NE9 - Pollution

Aligned Core Strategies (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 Planning permission for the continued use of the site for the car wash, catering van, storage of vehicles and shipping containers was refused on 25 January 2018. The activities were considered detrimental to the amenity of neighbouring residential properties by virtue of the level of activity being carried out in close proximity to these neighbouring properties, and the visual amenity of the area by virtue of the disorganised and untidy appearance of the site. At the time of the refusal, the applicant had failed to respond to officer request for amendments to the site layout and operations to mitigate against the impacts being caused on neighbours and the amenity of the area. The refusal of planning permission and enforcement action against the unauthorised uses were therefore considered appropriate steps to take.

- 7.2 Enforcement prosecution proceedings had commenced before the applicant then committed to undertake a number of measures to improve the appearance of the site, including the removal of all parked vehicles and a number of storage containers. This planning application has also been submitted and subsequently supplemented to include the proposed relocation of all storage containers away from the boundary with the neighbouring properties and also the provision of an acoustic fence to the rear of the car wash area both to screen the car wash operations and to reduce noise impacts. The applicant has also committed to relocate the car wash pump equipment away from the boundary with neighbouring properties and to secure this within a secure acoustic enclosure. Portable toilets and a bin storage area are to be provided for staff and customer use. A further fence is also to be erected to subdivide the larger vacant site and therefore to contain the proposed uses within a defined area. The remaining area of the larger vacant site has been omitted from the application site boundary and would therefore have no planning status until such time as redevelopment proposals are submitted and approved.
- 7.3 The proposed layout of the site would be more ordered, with activities and noise sources being centred within the site at a distance from neighbouring residential properties, including the relocation and enclosure of the pump generator from within a container on the rear boundary of the site to a position adjacent to the neighbouring vehicle repair/servicing centre premises. Subject to appropriate specifications, it is considered that the provision of acoustic and other fencing to the rear of the car wash area would also mitigate against noise nuisance from car wash activities. It is therefore considered that these significant changes would, subject to implementation within a strictly limited period, substantially address the amenity of neighbouring residential properties and visual amenity of the area. Accordingly, and subject to conditions to include (i) a temporary consent period of 1 year to ensure implementation and compliance with the approved layout; (ii) that the use is not carried out until the site layout has been implemented in accordance with the approved layout and details and within 1 month of the date of planning permission; (iii) limitations on the hours of operation in accordance with the previous planning permission, and (iv) noise levels not to exceed those prescribed within the previous planning permission, it is considered that on this basis the proposed development would accord with Policy NE9 and Policy 10.
- 7.4 The temporary planning permission previously granted included an hours of operation condition, which is proposed to be repeated. Whilst it is alleged that the applicant has been operating outside of these hours control this has not been reported until recently. Therefore, in addition to the implementation of noise and other nuisance mitigation, the applicant will be advised to adhere strictly to these hours of use or face renewed enforcement action and refusal of a subsequent application to extend the proposed 1 year temporary planning permission.
- 7.5 The relocation of the storage containers and provision of a bin store area at a distance from the neighbouring properties would also minimise any instances of nuisance along the rear boundary, which would be rendered inaccessible with the provision of the proposed new fencing. The applicant has also committed to adjust the angle of any floodlights that cause any nuisance and to carry out weekly checks to ensure compliance.

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: 18/00809/PFUL3 - link to online case file:
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P7QQ8QLYN3900>
2. Neighbour, 8.5.18
3. Neighbour, 24.5.18
4. Ward Councillors, 21.5.18
5. Highways, 21.5.18
6. Environmental Health and Safer Places, 22.5.18

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)
Aligned Core Strategies (September 2014)

Contact Officer:

Mr Jim Rae, Case Officer, Development Management.

Email: jim.rae@nottinghamcity.gov.uk. Telephone: 0115 8764074


NOMAD printed map



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Key

 City Boundary

Description

No description provided

My Ref: 18/00809/PFUL3 (PP-06921311)
Your Ref:
Contact: Mr Jim Rae
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
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Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

Reynolds Associates Mr Keith Reynolds
PO Box 7988
Arnold
Nottingham
NG5 5ZU
United Kingdom

Date of decision:

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

Application No: 18/00809/PFUL3 (PP-06921311)
Application by: Mr M Barker
Location: Site Of Apollo Hotel PH, Hucknall Lane, Nottingham
Proposal: Use of land as hand car wash with canopies, associated storage containers, relocated pump unit, acoustic fence, catering van serving hot food and drink and with associated customer seating area, bin store and portable toilets.
(Resubmission)

Nottingham City Council as Local Planning Authority hereby **GRANTS PLANNING PERMISSION** for the development described in the above application subject to the following conditions:-

Time limit

1. The use hereby permitted shall be discontinued on or before 30 June 2019 and the building(s) and works constructed or carried out under this permission shall be removed and the land reinstated to its former condition by that date unless upon subsequent application the Local Planning Authority grants a further permission.

Reason: In order to ensure that the development has been implemented in accordance with the approved drawings and therefore in mitigation of the impacts currently being caused to the amenities of neighbouring residential properties and the visual amenity of the area in accordance with Policy 10 of the Aligned Core Strategies and Policy NE9 of the Nottingham Local Plan.

Pre-commencement conditions

(The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)

There are no conditions in this section.

Pre-occupation conditions

(The conditions in this section must be complied with before the development is occupied)

There are no conditions in this section.



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Regulatory/ongoing conditions

(Conditions relating to the subsequent use of the development and other regulatory matters)

2. The use hereby permitted shall not be carried out until the site layout has been implemented in accordance with drawing ref. 10871/S02/D , including the relocation of storage containers, relocated pump unit with acoustic fence, acoustic fence to the rear of the car wash area, bin store area, and portable toilet. Written verification of the completion of these works shall be provided to the Local Planning Authority no later than one month from the date of this consent.

Reason: In order to ensure that the development is implemented promptly in accordance with the approved layout plan and therefore in mitigation of the impacts currently being caused to the amenities of neighbouring residential properties and the visual amenity of the area in accordance with Policy 10 of the Aligned Core Strategies and Policy NE9 of the Nottingham Local Plan.

3. The approved hand car wash use shall not be carried on outside the following hours unless with the prior written consent of the Local Planning Authority:

08:00 to 19:00 Monday to Friday

08:00 to 18:00 Saturday

09:00 to 16:00 Sunday

Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy NE9 of the Nottingham Local Plan.

4. Noise associated with activities on site shall not exceed Noise Rating NR40 at the site boundary of the nearest noise sensitive receptor.

Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy NE9 of the Nottingham Local Plan.

5. The area of land between the approved acoustic fence to the rear of the car wash area and the rear and side boundaries of the adjoining residential properties on Ventura Drive shall not be used for the storage of any items, and shall be kept clear of rubbish at all times that the approved use remains in operation.

Reason: In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies.

Standard condition- scope of permission

- S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 25 April 2018.

Reason: To determine the scope of this permission.

Informatives

1. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

2. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it



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imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

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

RIGHTS OF APPEAL

Application No: 18/00809/PFUL3 (PP-06921311)

If the applicant is aggrieved by the decision of the City Council to impose conditions on the grant of 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.



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