

DIRECTOR OF PLANNING AND REGENERATION

Site Of Apollo Hotel PH, Hucknall Lane

1 SUMMARY

Application No: 19/00355/PFUL3 for planning permission
19/00352/PFUL3 for planning permission

Application by: Reynolds Associates on behalf of Mr M Barker

Proposal: 1. Retention of hand car wash with associated storage containers and unit serving hot food and drink with seating area.
2. Provision of hot food sales container to replace existing trailer.

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

To meet the Council's Performance Targets this application should be determined by 24th October 2019

2 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the conditions listed in the draft decision notice at the end of this report.

(Note: A three year commencement condition is not attached to the hand car wash draft decision notice as this use is on-going. The hot food sales container replaces the existing trailer and includes an adjustment to its position and does therefore require a three year commencement condition.)

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 The site has a complex recent planning history. Planning permission for the use of part of the application site as a hand car wash was initially granted temporary consent for three years (13/01074/PFUL3). A breach of planning control arising from the on-going use of the site beyond the permitted three years, a number of additional storage containers, a mobile catering van, and a range of vehicles being stored on the site, resulted in an enforcement notice being served (24 March 2017). A planning application for the continued use of the site was then initially refused

(17/00660/PFUL3), but then a subsequent further application including revised site arrangements (acoustic enclosure, acoustic fence, bin store area, portable toilet) was granted planning permission for a temporary period of a further year (18/00809/PFUL3).

- 3.4 The planning permission was subject to a condition requiring implementation of the revised site arrangements, including the relocation of storage containers, the relocation of the water pump unit with the provision of an acoustic enclosure, the erection of an acoustic fence to the rear of the car wash area, and the provision of a bin store and portable toilet. Written verification of the implementation of these works within one month of the date of the planning permission was subsequently provided.
- 3.5 A further condition of the planning permission related to the hours of use of the hand car wash, which allowed operations to be carried out within the following hours:

08:00 to 19:00 Monday to Friday
10:00 to 18:00 Saturday
10:00 to 16:00 Sunday

Set-up operations were also controlled to no more than 15 minutes prior to these start times.

4 DETAILS OF THE PROPOSAL

- 4.1 The two applications propose the continued use of the land as a hand car wash with canopies, associated storage containers, and the substitution and minor adjustment to the position of the hot food sales unit, replacing the existing catering van with a permanent hot food container unit and an associated customer seating area.
- 4.2 The car wash area and canopies are located towards the southern boundary of the site with the neighbouring tyre centre business. The associated storage containers are located a central position within the site to the north of the car wash area. A 2.6m high acoustic fence has been 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 hot food container unit and associated customer seating are located centrally and towards the Hucknall Lane boundary of the site. A bin store area and portable toilet are located proximate to the hot food container unit. Vehicle access is via an existing gated entrance on Hucknall Lane.
- 4.3 The application also seeks to vary the previously approved hours of use to:
- 08:00 to 19:00 Monday to Friday
08:00 to 18:00 Saturday
09:00 to 16:00 Sunday and Bank Holidays

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. Site operations cause a barrage of noise from use of jet wash hoses. Hot food sales are contributing to rising rat population.

Neighbour: Objection. Have objected to the original application and have had numerous causes to complain. The car wash is a nuisance to all that live near it, affecting the ability to use back garden unless the car wash is closed due to the noise from it. 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 addition of the acoustic fence has done nothing to rectify this.

The proposed hours of operation at the weekend for the car wash and food van are not appropriate due to the level of noise caused by staff setting up and the noise from the jet washes. Noise is caused by 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. The applicant has stated that the hours are in keeping with the adjacent businesses, but these operate internally and do not cause noise nuisance, unlike the car wash

Since the latest temporary permission was granted in June 2018, there have been numerous breaches of conditions - setting up earlier than permitted at weekends, storing items behind the acoustic fence, washing cars later than permitted, adding additional fencing, adding an additional permanent storage unit beside the pump unit, and cars stored on the site for an unlimited number of days.

Unfortunately have now had years of experience of the applicant doing what he wants and the Planning department not taking appropriate action, which is why it's expected that the permission will be granted and the site will continue to add things here and there and stretch the hours of operation with no consequence.

For whatever reason, this applicant's behaviour is enabled by planning officers to the detriment of residents who did not choose to buy properties next door to a noisy hand car wash.

(Note: Regular reports of early site set-up and operations have also been received from this neighbour)

Additional consultation letters sent to:

Environmental Health: No objection to car wash operation, which has been the subject of specific measurements to identify the noise levels that the car wash is now operating at, isolating this source from the background noise of traffic using Hucknall Lane, and therefore providing an accurate basis from which any future breach of condition may be established and enforced. Therefore, recommend approval subject to the specified noise levels condition. On this basis it is also recommended that the proposed variation to hours of operation are approved subject to a condition stating that the car wash shall not be open to customers outside of those stated hours.

No objection to the swapping of the existing hot food trailer with an alternative container unit. No complaints have been received arising from the presence of the hot food trailer.

Highways: No objection. No highway issues associated with the current site operations.

Drainage: No objection. Applicant needs to ensure that no run off from the car washing area enters the highway.

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 Paragraph 11 states that there is a presumption in favour of sustainable development and that development should be approved, without delay, where it accords with the development plan.
- 6.3 Paragraph 117 states that planning decisions should encourage the effective use of land by re-using land that has been previously developed.
- 6.4 Paragraph 180 states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impact that could arise from the development. Planning policies and decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 6.5 Annex 1 states that the policies in the NPPF are material planning considerations which should be taken into account in dealing with planning applications. For the purpose of decision-taking, the policies in the Local Plan are to be afforded weight in accordance with their consistency with the NPPF.

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) Use, layout and appearance in relation to the amenity of neighbouring residential properties and the wider area (Policy NE9 and Policy 10)

- 7.1 Consideration of the continued use of the hand car wash operations has narrowed to the issue of noise nuisance to neighbouring residential properties.

- 7.2 Since the granting of the planning permission for a further one year use of the site the applicant has relocated the car wash pump equipment away from the boundary with neighbouring properties and has housed this within a secure acoustic enclosure. An acoustic fence has also been erected to the rear of the site between the car wash area and the rear fences of gardens of properties on Ventura Drive. At the time of recommending that planning permission it was considered that the implementation of these measures would mitigate against noise nuisance from car wash activities. The purpose in granting that planning permission for a temporary period was to allow for a review to determine if this level of mitigation was successful.
- 7.3 Environmental Health have visited the site and neighbouring properties on a number of occasions over the course of reviewing this current planning application. Early visits have recorded noise levels from the operation of the car jet washes that were in excess of the limit set by the planning condition, therefore confirming the above concerns in the responses received from neighbours. These recordings have been raised with the applicant and their agents where the scope for further mitigation has been discussed. The applicant appointed an acoustic consultant to assist in this process and joint visits have subsequently been carried out with Environmental Health officers.
- 7.4 Further mitigation has then been undertaken by the applicant, including the replacement of the car wash nozzles and reduction in the water pressure levels being used. Joint measurements taken have then been focussed on the specific frequency of noise being generated by the car wash operations, which is able to be distinguished from the noticeable background noise of traffic using Hucknall Lane. Environmental Health have confirmed that the mitigation measures have now reduced noise levels to an acceptable level in relation to neighbouring residential properties and significantly, that the specific noise frequency levels of the car wash operations are now able to be relied upon in the instance of any future enforceable breach of the recommended planning condition. The noise levels have also been assessed in relation to the longer opening hours now being sought, with earlier start times at weekends. It is therefore considered that the proposed car wash operations accord with Policy NE9.
- 7.5 It is considered that the previous relocation of the storage containers and provision of a bin store area and portable toilet have improved the general appearance and therefore amenity of the site operations. The alternative provision of a hot food sales container to replace the existing trailer is not considered to raise any additional amenity issues. Environmental Health also have no objection to this change, which is therefore considered to accord with Policy 10 of and Policy NE9.

8. SUSTAINABILITY / BIODIVERSITY

Drainage connection to the foul water drain was established when the hand car wash use was first commenced.

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: 19/00355/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PMZ17WLYGD700>

2. Highways, 21.2.19

3. Drainage, 25.2.19

4. Environmental Health, 15.5.19, 31.7.19, 30.9.19

5. Neighbour, 22.2.19

6. Neighbour, 13.3.19

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: jjm.rae@nottinghamcity.gov.uk. Telephone: 0115 8764074

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Key
 City Boundary

Description
 No description provided

My Ref: 19/00352/PFUL3 (PP-07630235)
Your Ref:
Contact: Mr Jim Rae
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
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Tel: 0115 8764447
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Reynolds Associates
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NG5 5ZU

Date of decision:

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

Application No: 19/00352/PFUL3 (PP-07630235)
Application by: Mr M L Barker
Location: Catering Wagon At Apollo Car Wash, 170 Hucknall Lane, Nottingham
Proposal: Provision of hot food sales container to replace existing trailer.

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 development hereby permitted shall be begun before the expiration of three years from the date of this permission. <i>Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</i>
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.
Regulatory/ongoing conditions (Conditions relating to the subsequent use of the development and other regulatory matters)
There are no conditions in this section.
Standard condition- scope of permission



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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 15 February 2019.

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 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.



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RIGHTS OF APPEAL

Application No: 19/00352/PFUL3 (PP-07630235)

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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Nottingham
City Council

My Ref: 19/00355/PFUL3 (PP-07631405)
Your Ref:
Contact: Mr Jim Rae
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**Nottingham
City Council**

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Date of decision:

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

Application No: 19/00355/PFUL3 (PP-07631405)
Application by: Mr M Barker
Location: Site Of Apollo Hotel PH, Hucknall Lane, Nottingham
Proposal: Retention of hand car wash with associated storage containers and unit serving hot food and drink with seating area.

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
. There are no conditions in this section.
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.
Regulatory/ongoing conditions (Conditions relating to the subsequent use of the development and other regulatory matters)

1. The noise levels arising from the use of the hand car wash measured between the two fences forming a boundary with the rear of properties on Venture Drive and the car wash measured as an Leq 1 hour shall not exceed the following 3rd Octave Band levels:

	3 rd Octave Band Centre Frequency						
	2.5kHz	3.15kHz	4kHz	5kHz	6.3kHz	8kHz	10kHz
Sound Pressure Level (Leq 1 hour)	46	46	44	43	43	40	36

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.

2. The approved hand car wash use shall not be open to customers outside of 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 and Bank Holidays

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.

3. The area of land between the approved acoustic fence to the rear of the hand 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.

4. The approved hand car wash shall not be operated unless an acoustic fence of the same specification (position, height and construction) as the existing acoustic fence remains in place between the rear of the car wash area and the rear and side boundaries of the adjoining residential properties on Ventura Drive.

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 15 February 2019.

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 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.

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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.

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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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