

Applicant: Mr Wayne Hadfield

Description: Use of land for hand car wash including staff room and staff and visitor parking.

Site Address: Land adjacent to Three T's Industrial Estate, Platts Common Industrial Estate, Platts Common, Barnsley, S74 9DG

## Site Location & Description

The site lies south west of Barnsley close to the Platts Common Industrial Estate near Hoyland. The application relates to a rectangular shaped site measuring approximately 768m<sup>2</sup> mainly consisting of hardstanding. It generally slopes up from South to North and is accessed via Chambers Road which links to Wombwell Road (B6096). Immediately to the East of the site is Three Ts business park (which is within a blue line boundary) which consist of an 'L' shaped stone building which is subdivided into modest business units with a central parking area. To the Northwest is an industrial site which forms part of Platts Common Industrial Estate and is accessed from Clayfield Road. To the North is a band of trees which separates the site from the Royal Oak pub and its associated beer garden. To the West of the site is an area of green Space with industrial units beyond.

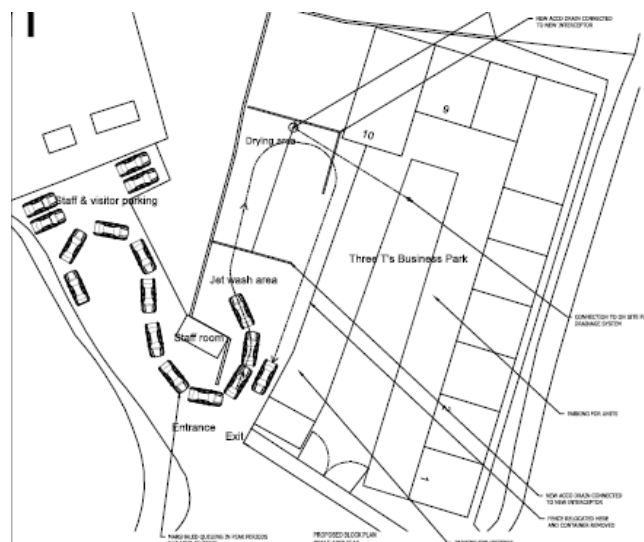
Since the refusal of the previous application for a hand car wash on the site (Ref: 2023/0435) the fencing between the application site and the business park has been removed and an unauthorised hand car wash and car sales business has commenced.

## Site History

2023/0435 - Use of land for hand car wash including staff room and staff and visitor parking – refused for the following reasons;

*In the opinion of the Local Planning Authority the proposed development would result in the intensification in use of a substandard access potentially leading to queuing vehicles in busy times. Furthermore, the applicant relies on land outside of their ownership and/or control to ensure the safe operation, access and egress of the site, as such, there is no reasonable expectation that the development could be implemented. As such, the proposal is contrary to Local Plan Policy T4 'New development and Transport Safety' and paragraphs 114 and 115 of the NPPF and would give rise to conditions prejudicial to highway safety.*

*In the opinion of the Local Planning Authority, the applicant has not submitted sufficient details to enable an adequate assessment to be made of the effect of the proposal on the amenity of the neighbouring occupants of the business units. No information has been supplied relating to what equipment will be used, what noise levels will be emitted and how any noise will be mitigated. Furthermore, there is no information in terms of protecting the neighbouring units and associated parking areas from any over spray that may occur from the pressure washers, as such, the proposal is contrary to local Plan Policies GD1 'General Development' and Poll1 'Pollution Control and Protection' and NPPF paragraph 185.*



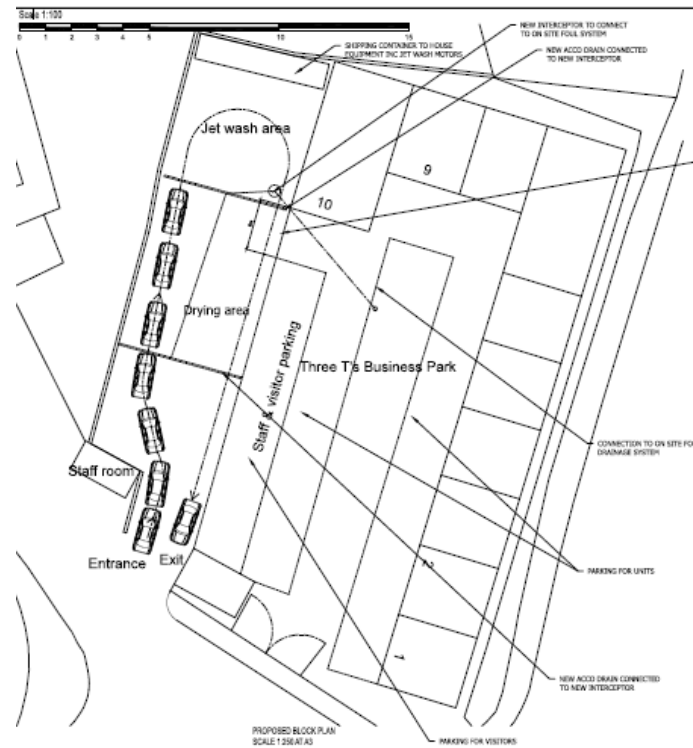
## Proposed Development

Since the refusal of application 2023/0435 the redline boundary of the site has been reduced (1450m<sup>2</sup> down to 768m<sup>2</sup>) and does not include the area to the West which was previously proposed to accommodate queueing traffic and staff/visitor parking. It is believed that this area now accommodates the unauthorised car sales business and will be subject to enforcement action.

The proposal incorporates a shared entrance/exit from Chambers Road to the south which serves a long, narrow one way system which has a jet wash area and storage container at the far end (North) and a central drying area. Adjacent to the entrance is a small staff room.

An acoustic screen is proposed adjacent to the front of unit 10 in Three T's business park and the boundary line between the site and the business park is proposed to be amended to take part of the business park's parking area to be used for staff and visitor parking associated with the car wash.

The proposed layout is shown below;



## Policy Context

Planning decisions should be made in accordance with the current development plan policies unless material considerations indicate otherwise; the National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making. The Local Plan was adopted in January 2019 and is now accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment, and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies which are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027, or earlier, if circumstances require it.

The site is allocated as Urban Fabric, and also within the Dearne Valley Green Heart, within the Local Plan Proposals Maps and therefore the following policies are relevant:

*Policy T4 New development and Transport Safety*

*Policy GD1 General Development*

*Policy D1 High Quality Design and Place Making*

*Policy Poll1 Pollution Control and Protection*

*Policy LG2 The Location of Growth*

*Policy E4 Protecting Existing Employment Land*

*Policy CL1 Contaminated and Unstable Land*

## NPPF

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 85 – Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity.

Para 96 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places

Para 115- Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Para 131 - The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Para135. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>49</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Para191 - Planning policies and decisions should also 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 impacts that could arise from the development.

## **Consultations**

Drainage – details to be checked by Building Control

Council Estates – object as the land is within Council ownership

Highways – Object as the amendments proposed do not address the previous concerns

Reg Services – No objections

SYMAS – No objections subject to an informative

The Coal Authority – Object as the CMRA is not site specific or specific to the proposed development.

Yorkshire Water – No objections subject to a condition

Ward Councillors – No comments

## **Representations**

Letters were sent to 30no. neighbouring properties and a site notice was erected within the immediate area. 6no. objections letters have been received; the main points of concern are;

- Increased congestion and reduced highway safety
- Increased noise and disturbance
- Increased waste
- Potential contamination from the site
- Proposed scheme reduces the parking for the business units
- Fences around the business units have been removed which results in reduced safety and negative impact on the operation of those units
- Increased flooding
- Conflict between cars waiting to get in the carwash and vehicles entering the business estate and beyond
- Questions raised over land ownership, applicant is encroaching on Council Land and the land of the neighbouring business park

## **Assessment**

### Principle of Development

Paragraph 85 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity. However, proposals for new businesses should be in accordance with national and local planning policies.

Policy T4 'New development and Transport Safety' states that new development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement. Paragraph 114 of the NPPF states that in assessing ...specific applications for development, it should be ensured that...safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network...,or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 115 states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety'. The merits of the proposed access arrangements will be explored in further detail under the Highways consideration section below.

Local Plan Policy Poll1 'Pollution Control and Protection' states that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause nuisance to the natural and built environment or to people. Local Plan Policy GD1 'General Development' also states proposals will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

This proposal is for a car wash which likely utilises noise generating equipment such as generators, jet washes and vacuums. Jet washes generate spray which can cause nuisance to neighbouring building users. Furthermore, the combustion engine cars utilising the car wash would likely have their engines running and there would also be music playing within the cars. No noise survey has been submitted alongside this application so there is limited information regarding equipment (only a specification sheet for the proposed model of jet wash), or potential noise to fully assess the potential impacts of the neighbouring business and industrial units or identify any potential mitigation measures which may be required. Amenity will be explored in further detail below.

It should also be noted that Certificate A was completed on the application form with the applicant stating they were the sole owner of the land subject to the application. However, the majority of the land is still in Council ownership and no notice was served upon the Council as landowner. Furthermore, this application now occupies an area of the adjacent business site and the owner of units 1,2,3,4,5,6 and 9 and associated parking spaces state they have not been approached regarding the application.

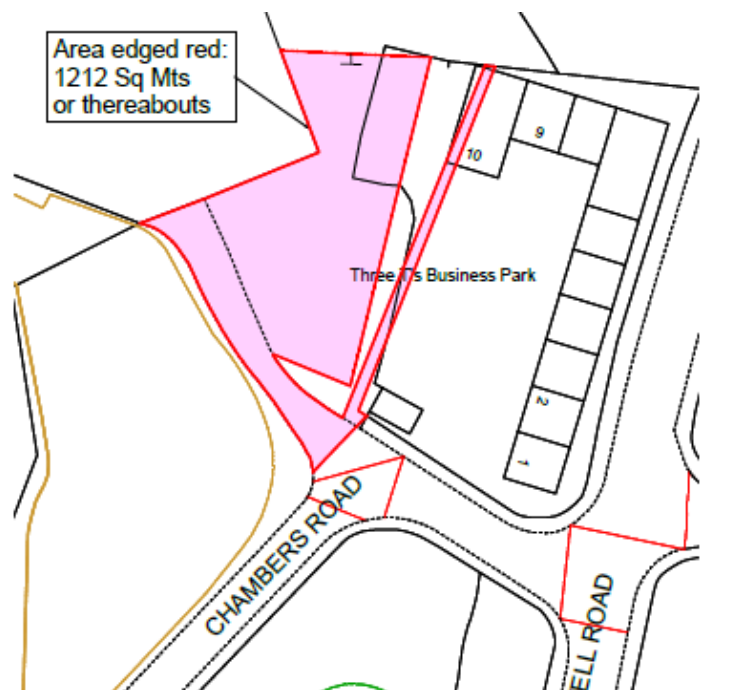
Any person can apply for planning permission for land they do not control but the relevant notifications must take place, and the correct certificates completed. Planning permission does not override ownership in that even if planning permission is granted if the landowner does not consent to the development it would not go ahead. In granting planning permission, there should be a reasonable expectation that a development could be implemented.

If the Local Authority determines an application where the correct certificate has not been served the permission may be invalid and would be at risk that the High Court would quash the permission if judicial review proceedings are brought. It is also an offence to complete a false or misleading certificate, either knowingly or recklessly.

### Highway Considerations

As with the previously refused application, a single access and exit point direct from Chambers Road is proposed. The previous area allocated for queueing cars and staff/visitor parking has been omitted on this application. The applicant does propose a staff and customer parking area, however, it encroaches into the parking/manoeuvring area of the neighbouring business park. The owner of several of the units of the business park states the applicant has no control over that land. Furthermore, the majority of the redline boundary is within Council ownership, as such, as with the previously refused scheme, the current proposal heavily relies on land outside of the applicants' ownership or control.

As outlined in the principle of development section above, any person can apply for permission on land which is not under their control subject to the correct certificates being completed and served. Planning Permission can be granted on land outside of the applicants' control as planning permission does not override ownership and the applicant would need both the planning permission and the owner's consent to implement a development. However, in this instance the Council is part land owner and the Asset Management team were only made aware of the proposals once the applications were submitted and were not served notice in the correct manner. The extent of the Councils ownership is highlighted in pink on the plan below;



The extent of the ownership/control above demonstrates that the site cannot be accessed unless crossing Council owned land, the majority of the area of the hand car wash is partially within Council ownership, the area of the Three T's Business Park needed to widen the hand car wash is within Council Ownership. Furthermore, the area required for staff/visitor parking within the Three T's business park is also claimed to be outside of the applicants control and in separate ownership. As such, without that land the applicant cannot safely access or operate the proposed use, therefore, there is no reasonable expectation that the development could be implemented.

Historically, there was an agreement "in principle" with the Council for the applicant to take ownership or control of the land but this was reliant on a number of factors which never came to fruition. As such, the transfer was never finalised. Asset Management have strongly objected to this planning application and consider the proposal an inappropriate use on Council Land and would not be willing to sell or lease on this basis. The part owner of Three T's has also stated they have not agreed to sell or lease the land required to accommodate the proposed use.

As there is confirmation from the land owners that their permission to use the land as proposed would not be granted to the applicant, there is no reasonable expectation the development could be implemented.

In addition, Highways DM have objected to the scheme. The applicant continues to rely on land outside of the applicants' ownership or control to ensure the safe operation, access and egress of the site. Furthermore, there would be an intensification in use of Chambers Road which currently only accommodates a modest number of vehicle movements.

As outlined above, there is extensive history to this site and a previous application for the hand car wash recently refused. Arguably this application has taken a backward step from the previously refused application as the area of land previously included for queueing and parking has been lost, resulting in queueing now taking place on Chambers Road. The applicant is proposing staff parking within the site however, on land which encroaches into the adjoining industrial estate. This evidently impacts both the parking within the industrial estate and reduces the available space for vehicles to turn within the site.

Having read through the objections associated with the application, the applicant appears to be operating the hand car wash without permission. It has been a concern of Highways Development Control that the car wash would result in queueing along Chambers Road and subsequently onto Wombwell Road, which appears to be happening.

The changes proposed under this application do not address the previously raised concerns and additionally, now negatively impact the adjoining industrial estate. As such, Highways DM continue to raise objection to the application from a highways perspective.

Taking the above into consideration, the application is not viewed favourably in terms of highway safety. The proposal is over intensive for the site with the potential for conflicting vehicle movements impacting the free flow of traffic on the highway network. The proposal is therefore contrary to Local Plan Policy T4 and paragraphs 114 and 115 of the NPPF.

### Residential Amenity

The closest residential properties to the site are over 50m away and are also shielded by the existing buildings within Three T's Business Park, as such, it is unlikely the proposed car wash would significantly impact upon the amenity of neighbouring residents.

However, the site is immediately adjacent to a number of business units and could negatively impact the occupants of those units. Apart from a Jet Wash specification sheet and an indication that a small section of acoustic screen would be erected, no information has been supplied relating to what equipment will be used, what noise levels will be emitted and how any noise will be mitigated. There is also no information in terms of protecting the neighbouring units from any over spray that may occur.

It is noted that the applicant and their agent have referenced other car washes within the area and their proximity to more sensitive neighbouring properties. However, each case should be considered on its own merits and the applications referred to were generally accompanied by a noise survey and subject to a number of mitigation measures that were conditioned.

Furthermore, the current application would encroach onto the neighbouring business park and the objections received highlight that the car wash would negatively impact how they operate their business. The car wash is also currently operational and does not reflect the plans submitted as vehicles are exiting through the business park which is causing further issues to the occupants of the units.

In this case it is considered that there is a lack of information available to fully consider the proposal, its potential impact on neighbouring users and any mitigation measures which may be required, contrary to local Plan Policies GD1 and Poll 1 and NPPF paragraph 191.

### Drainage

Neighbouring occupants of the Three T's business park, which is on a lower level than the proposed car wash, have stated that there are current issues with standing water on the parking/turning areas within the site which would be used to exit the car wash. However, the applicants have shown a number of Acco drains across the site and an interceptor to control the water generated by the pressure washers. The Council's Drainage Officer has raised no objections and recommended that the drainage be fully assessed at Building Control stage. Yorkshire Water have also raised no objections subject to a condition.

### Mining

The application site falls within the Coal Authority's defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Records also indicate the presence of four recorded mine entries (shafts) within, or within 20m of the planning boundary. An untreated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.

As with the previously refused application, this application has been accompanied by a Coal Mining Risk Assessment. However, again the Coal Authority have raised objection with this report as it relates to a previous development on the site(2020/0685) rather than the current proposal. The report does recommend that further phase 2 intrusive investigations are required via trial pits to fully determine any coal mining legacy risks to the proposed development, in this instance the nearby old mine shafts.

Given the Coal Mining Risk Assessment relates to this site, and despite the fact it is for a different proposal, South Yorkshire Mining Advisory Service agree with the report conclusion and are satisfied a suitably worded condition/informative would be appropriate in this case.

As such, despite the objections from the Coal Authority the fact the report relates to a different proposal would not warrant a refusal in this case as the development would be fully assessed under a discharge of conditions application. Furthermore, since the application was originally submitted a proposed industrial unit has been removed and the only structures are a small cabin for staff and a storage container.

### Summary

For the reasons set out above, the revised application, similarly to the previous refusal, is not viewed favourably in terms of highway safety given that the applicant continues to rely on land outside of their ownership and/or control to ensure the safe operation, access and egress of the site. The proposal is therefore contrary to Local Plan Policy T4 and paragraphs 114 and 115 of the NPPF.

Furthermore, the applicant has failed to submit sufficient details to enable an adequate assessment of the application to be made. There is no noise survey to adequately assess the impact of the plant and machinery on the occupants of the neighbouring business unit nor any potential mitigation measures that may be required to safeguard their amenity.

### **Recommendation**

#### **Refuse**

*In the opinion of the Local Planning Authority the proposed development would result in the intensification in use of a substandard access potentially leading to queuing vehicles in busy times. Furthermore, the applicant relies on land outside of their ownership and/or control to ensure the safe operation, access and egress of the site and there is no evidence that a right of way has been secured and there is no guarantee that the land owner/s will permit a right of access in perpetuity. As such, there is no reasonable expectation that the development could be implemented. Therefore, the proposal is contrary to Local Plan Policy T4 'New development and Transport Safety' and paragraphs 114 and 115 of the NPPF and would give rise to conditions prejudicial to highway safety.*

*In the opinion of the Local Planning Authority, the applicant has not submitted sufficient details to enable an adequate assessment to be made of the effect of the proposal on the amenity of the neighbouring occupants of the business units. Limited information has been supplied relating to what equipment will be used, what noise levels will be emitted and how any noise will be mitigated. Furthermore, there is no information in terms of protecting the neighbouring units and associated parking areas from any over spray that may occur from the pressure washers, as such, the proposal is contrary to local Plan Policies GD1 'General Development' and Poll1 'Pollution Control and Protection' and NPPF paragraph 191.*