**2016/0322**

**Applicant:** Applicant, C/o SBW Planning Ltd

**Description:** Removal of Condition 2 of application 2013/1228 (Removal of former petrol station canopy, formation of 2 car washing bays, new boundary treatment and landscaping to create a new hand car wash and valet centre (sui generis) to remove temporary permission and allow permanent use of site. (Amended Plans)**.**

**Site Address:** Former Petrol Filling Station, Pontefract Road, Barnsley, S72 8AY`

**There have been 14 letters of objection and 2 letters of support.**

**Update**

Members will recall that this application was deferred from the March Planning Board in order to determine whether the agent would be willing to amend the scheme in order to address concerns over impacts on residential amenity and the ability for larger vans to use the car wash. The agent has responded by amending the bays in the following ways:

- The introduction of a horizontal bar within the bays at a height of 2.2m to ensure no vehicles over that height could get through the car wash bays.
- The introduction of PVC strip doors on the northern elevation of the bays which can be closed to prevent spray spreading to neighbouring gardens.

The agent has considered the option of a revised layout or re-orientation of the bays but considers that this is likely to raise new issues and would result in difficulties with regards to vehicles entering and exiting the site.

**Site Description**

The application site comprises a former petrol station (0.086ha) which ceased operation in 2005, it has subsequently been used as hand car wash. The site comprises a hard standing with two screened car wash areas, a single storey brick amenity building situated at the southern part of the site and a wooden fence along the frontage. There is a gazebo under which there is parking for two staff cars.

The site fronts Pontefract Road to the West, the rear of residential properties fronting Intake Road to the North and East, and a vacant plot to the South. There is green timber screen to the rear of the residential properties to the North and East. Existing trees are also situated at the site boundary with the residential properties.

**Previous Planning History**

2013/1228

Removal of former petrol station canopy, formation of 2 car washing bays, new boundary treatment and landscaping to create a new hand car wash and valet centre (sui generis). Former Star Filling Station Pontefract Road, Cudworth.

Permission was sought for a change of use of the former vacant petrol station to a car wash and valet centre. This involved the removal of the existing petrol station canopy and the formation of 2 car washing bays alongside new boundary treatment and landscaping. A jet

wash and vacuum station were provided to the eastern side of the kiosk structure to provide the full valet service.

The Council refused permission and the mater went to appeal. The Inspector considered the changes to the scheme since a previous appeal (in 2012) was dismissed. These included a reduced number of bays, restricted hours of operation, further mitigation measures to reduce spray and the effects of noise. The Inspector concluded that the scheme was worthy of a planning permission although this was restricted to a temporary permission for 18 months to allow the Council to monitor this situation and assess the acceptability or otherwise of this use in terms of its effect on the living conditions of the neighbours.

Prior to application 2013/1228

There is a long history of planning applications at this site relating to car wash uses. Below is a summary of these applications:

In 2006 an unauthorised hand car wash and taxi business began to operate from the site. An application was made (2006/1718) however that application was refused by the Planning Regulatory Board on grounds relating to impact on neighbours and waste water.

Despite this refusal the hand car use continued to operate and as a consequence the Council issued a Temporary Stop Notice which had the effect of ceasing the use until a further application was considered. A further application for the change of use of the site to a hand car wash (2007/0711) was then submitted. To mitigate the effect of the car wash on the amenities of the neighbouring properties the applicant proposed to erect Perspex booths around the washing facilities and a new boundary fence. This was refused by the Planning Regulatory Board due to concerns about the impact on the amenities of nearby residents by reason of spray drift and the noise and disturbance arising from the use.

Although the above refusals and enforcement action resulted in the use ceasing for a short period of time it began operating again in March 2008. In May 2008 the Council issued an Enforcement Notice and Stop Notice, but these were ignored. A successful prosecution was brought in the Magistrates Court for a breach of the Stop Notice, but despite this the hand car wash use continued.

In April 2009 the Council was granted an injunction, which required the removal of all the car wash equipment from the site by the 15th May 2009. As the order was not complied with Council Officers attended the site on the 16th June 2009 and confiscated all the car wash equipment. The site was vacated the same day and remained closed.

Notwithstanding the above in 2010 a further application to operate a hand car wash on the site was submitted. Planning permission was refused as it was considered that it would adversely affect the amenities of nearby residents by reason of spray drift and the noise and disturbance arising from the use. A second reason stated that the siting of the container for the storage of chemicals and tools and the proposed retention of the existing boundary fencing, would not result in any improvement to the appearance of the site.

An application for such a use was then submitted and approved by Planning Regulatory Board to re-open the former petrol station with additional jet wash/vacuum facilities. (2010/1167)

In 2011 a new application (2011/1553) was submitted for change of use from petrol filling station (sui generis) to hand car wash (sui generis). This was refused on the basis that the proposed use would have a harmful affect the amenities of nearby residents as the cleaning process would create spray drift and run off which would adversely affect the adjoining

residents ability to use and enjoy their rear garden areas. Furthermore motor vehicles entering, exiting and being cleaned on the site would also generate an unacceptable level of noise and disturbance close to residential dwellings and residential boundaries.

In October 2012 an appeal was dismissed. The Inspector did not state any objection to the principle of the proposed use, however on the evidence submitted was concerned about the potential impact on neighbouring amenity and the appearance of the development.

In 2013 a further planning application ref 2013/0836 was submitted for a change of use of the former petrol station to a 3 bay car wash facility but this was subsequently withdrawn by the applicant before a decision could be reached

**Proposed Development**

This application is primarily to allow the permission to stand beyond the 18 months temporary period allowed by the Planning Inspector. That temporary period has now expired and hence this application has been submitted to allow for the use to be continued on the site. The applicant has made amendments to the layout and design and submitted a Management Plan and an updated noise report with this application.

The latest plan shows two car wash bays, a jet wash bay with a vacuum cleaner, two staff parking spaces and an office waiting room. There is substantial additional planting mainly to the eastern boundary but also to the southern and northern boundaries that if implemented would reduce the tarmacked area available for cars to wait and be polished outside of the two bays and jet wash areas. Roofs are proposed on the two bays. There is a 1.8m high perimeter acoustic close boarded timber fence and a 1.8m high perspex screen around the jet wash/vacuum area.

A noise report was initially carried out and this was followed by an acoustic appraisal which, in addition to the above measures also recommends the following:

- Extension of the eastern screen nearest to Garden Cottages to a linear length of 9.5m, allowing for 2m screening to the front and rear of an average sized car(4.8m);
- Inclusion of a solid, imperforate roof
- Inclusion of a cloth, rubber sponge, rubber foam layer to the lower half inner surface of the bays
- Employment of minimum 6mm thick Perspex panels.

**Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

<u>Core Strategy</u>

CSP19 Employment to be retained
CSP26 Highways issues.
CSP29 Design matters.
CSP40 Pollution protection.

Saved UDP Policies

The site falls within a Housing Policy Area and as a consequence Policy H8B: Non Residential Uses in Residential Areas is most relevant to this application. This states that planning permission will only be granted for such proposals where they would have no undue harmful impact on the amenity of neighbouring residents by way of noise, disturbance, loss of privacy, traffic congestion or other nuisance and where they would have not harm the visual amenities of an area.

Publication Consultation Document

The Council has submitted our emerging Local Plan to the Secretary of State but we are at an early stage in the examination process. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although, in accordance with paragraph 216 of the NPPF, the extent of this will depend on:

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

Policies of relevance would be:

SD1 Presumption in favour of sustainable development
GD1 General development
D1 Design
T4 New Development and Highway Improvement
Poll1 Pollution Control and Protection

NPPF

The National Planning Policy Framework 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. Where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraph 109 indicates that new development should not contribute to unacceptable levels of noise.

Paragraph 123 indicates that LPA's should try to avoid noise causing significant impacts on health and quality of life. This can be done by the use of planning conditions but business should not have unreasonable restrictions placed upon them.

**Consultations**

Pollution Control – Are satisfied that issues of noise have been adequately addressed subject to the imposition of conditions.

Highways- Highways are not aware of any complaints in terms of highway safety, consequently there are no objections to the proposed development in a highway context.

Ward Members – Have passed on concerns they have received from local residents relating to noise, spray, volume of vehicles, and operating outside agreed hours and site boundary.

**Representations**

14 Letters of objection raising the following concerns.

1. Spray comes over the screen fence falling onto residential properties especially if wind is blowing it that way. The applicants have erected further fencing and this has not solved the problem. Putting a roof on the bays will not solve the problem as it has been tried in the past.
2. Making pathways on highway slippery when wet and mixed with detergent and other chemicals. This can turn to ice in winter months.
3. There are cars being washed outside of the bays and finishing cars takes place outside the bays and cars awaiting collection are left on the pavement. This working practice is forcing pedestrians to walk on the road. Sometimes vehicular access into Intake Lane has been blocked.
4. Constant noise from jet spraying machines, vacuum cleaners, car doors slamming, engines revving, car horns, loud music and customers/staff shouting. Vacuum cleaners are not kept within the sound proof box provided.
5. Some rooms and gardens are unusable due to the noise.
6. Bright lights coming through windows
7. Operating hours not being adhered to.
8. Dates and times provided and video evidence is available of other nuisance. The applicant's modify working practices when they know in advance the site is being monitored.
9. This is a residential area.
10. Environmental damage due to use of chemicals.
11. Air quality issues due to engines left running.
12. Cars queuing on the road conflicting with road traffic and pedestrians.
13. Litter blows across from the site.
14. The site affects the outlook from neighbouring properties.

2 Letters of support

1. This is the best thing in Cudworth and a lot of money has been invested in the business.
2. Encourages more trade in Cudworth.
3. The business provide an excellent service.
4. Site is now more aesthetically pleasing than it was previously.

**Assessment**

Principle of Development

It is clear from the past history of the site that schemes for the use of this land for a hand car wash have generated a number of concerns leading to past refusals of planning applications from the Council, and a dismissal of an appeal from the Planning Inspector. However, more recently, a Planning Inspector granted planning permission with an 18 month restriction so that the impact of the operation could be assessed. In addition a number of planning conditions were imposed including hours of use. The Inspector also stated that he had no objections to the principle of the use of a hand car wash at this site.

There have been complaints made during the 18 months trial period asserting that the planning conditions have not been complied with. However, the current application contains measures that would help to alleviate most of these concerns.

UDP Saved Policy H8B and Barnsley LDF Policies CSP 26, CSP 29 and CSP 40, state that the principle of operating a small scale business use from the site, such as the one proposed in this application, may be acceptable providing it would not harm the amenities of the occupiers of adjoining dwellings, the visual amenities of the area or highway safety. Taking into account the information submitted, the current application has been assessed in line with the policy considerations.

Residential Amenity

This a housing policy area and as such there are existing residential occupiers that would be affected from the issues of noise, general disturbance, nuisance from spray, hours of opening and impact on outlook. The most noise sensitive properties are to the rear of the site, Gardeners Cottages. The initial noise report that had been prepared acknowledged that there is a significant increase in noise levels due to the operation of the car wash. When the car wash is operational noise levels are significantly higher than when it isn't. The difference recorded from the readings show an increase of +11dB, which would be considered as having a significant adverse impact on the properties. However, proceeding the submission of that report the applicant has recommended further mitigation measures that are outlined in the 'Proposed Development' Section of this report. Taking these additional factors into account a further acoustic survey was carried out which concludes that the mitigation measures would result in the increase reducing from +11 dB to +5dB. This takes the readings to within acceptable standards as compared against British Standards. These surveys have been fully assessed by the Council's Pollution Control Section who are satisfied with the assessments that have been carried out and, subject to suitable conditions, have raised no objections to the proposal.

Furthermore, it should be noted that planning permission had been granted for a petrol filling station with ancillary car wash in 2010 (2010/1167), which reflected the previous use of the site which ceased in 2006. This previously approved use would also generate significant noise levels and this would likely be commensurate with the noise levels measured from this car wash. Furthermore, a petrol filling station would close much later at night, potential have greater through put of traffic, contain a car wash and open much earlier in the morning.

Furthermore, the accoustic screen fence combined with the additional planting and roofs over the canopies will help to alleviate some of the noise issues. In addition the hand car wash is only operational during daytime hours so would not affect neighbouring amenities during the evenings.

In terms of spray, the Inspector in the most recent appeal stated that 'Evidence submitted by the appellant indicates that spray does not drift beyond 5 metres from a car being washed. The submitted plans indicate a distance of some 11m between the nearest car and the site boundary and this distance, plus the screens around the washing area and on the boundary would alleviate any issues with spray drift". The proposed scheme includes additional measures that were not considered at the time of the appeal, including roofs over the car wash bays, which would further help to alleviate the dispersal of spray.

Since the March Planning Board the applicant has also proposed further measures to provide a limit to the size of vehicles that can enter the car wash and additional PVC strip doors which would further help to mitigate the spray coming from the site.

There have been some unauthorised activities taking place observed by the objectors over the 18 month period. These have been investigated through the Council's Enforcement Unit to ensure compliance is sought with the conditions. However, it is the application that is submitted that is under consideration and there is an opportunity to ensure the conditions meet the requirements of the site if approval is to be given.

Visual Amenity

This is a prominent main road location that on the approach to Cudworth town centre.

There would be no external alterations compared with what is on site other than for the installation of a roof on the car wash bays, alterations to the screens, and the increased areas of landscaping. If the proposal were to be refused and the site were to be left vacant for any prolonged period there would be the potential for dilapidation and other visual detriment to occur over time. Keeping the site in appropriate use has visual benefits in preventing it being left vacant.

Local residents have commented upon the visual impact of the use but this is a suitable use for a main road. Elsewhere car washes and petrol stations tend to be on such main roads.

Highway Safety

Notwithstanding the comments received from local residents no complaints have been received by Highways regarding significant highway safety issues and therefore refusal on highway grounds is not supported. The Inspector did not have an issue with highway safety in the appeal and the Council's Highways Section do not consider that the scheme results in any significant detriment to highway safety.

Conclusions

There has been significant local concerns about the impact of the car wash facility since it was granted permission by a Planning Inspector for a temporary 18 months period. This application is to make the planning permission permanent and also to add additional mitigation measures. There is an opportunity to add further planning conditions and improve the situation.

The decision is based on a scheme that shows sufficient mitigation measures to help to alleviate the various concerns raised by local residents. These mitigation measures can be conditioned to ensure the additional planting, erection of roofs to the bays, and management of the site is carried out to ensure the business is compatible with its surroundings.

On this basis it is considered that the scheme supports sustainable economic growth and, with the conditions proposed, meets the requirement of the relevant local and national planning policies.

**Recommendation**

**Grant** subject to conditions

1 The development hereby approved shall be carried out strictly in accordance with the plan no. 2109-01-Rev G, proposed elevations drawing 2109 02 Rev B, and recommendations outlined in Apendix C of the Management Plan as approved unless required by any other conditions in this permission.
**Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.**

2 The use hereby permitted shall be carried on only between the hours of 09.00 to 18.00 Mondays to Fridays, 10.00 to 17.00 on Saturdays, Sundays or Bank Holidays.
**Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**

3 All boundary screening, planting, seeding or turfing comprised in the approved details on plan 2109-01-RevG shall be carried out within 28 days of the grant of this permission, and any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with other of similar size and species.
**Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 36, Biodiversity and Geodiversity.**

4 If the vacuum machine shown on plan 2109 01 Rev G is ever taken out from its accoustic fence to be used it should be contained in an accoustic box in order to seek compliance with condition 8.
**Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**

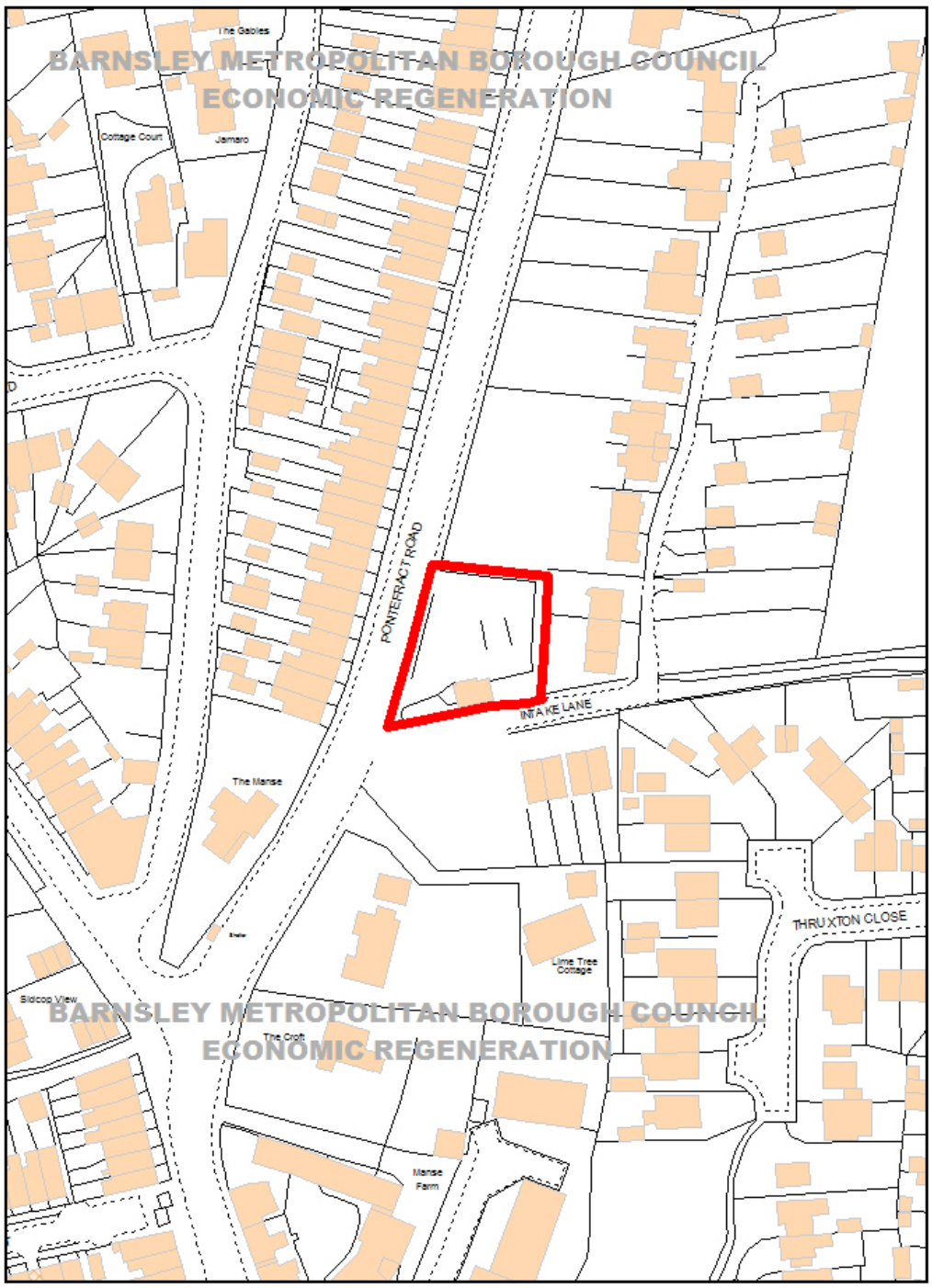
5 There shall be no washing, valeting or drying of vehicles within the areas shown as being shrub planting or staff parking at any time..
**Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**

6 All surface water run off and waste water from car washing shall be collected and disposed of within the site and shall not be allowed to discharge onto the adjacent highway or residential gardens.
**Reason: In the interests of highway safety and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**

7 The mitigation measures stated within Section 1.4 of the submitted Accoustic Appraisal by Waterman Infrastructure and Environment Limited, dated 8th March 2017, shall have been implemented on site within 2 months of the date of this decision notice. The measures shall thereafter be retained as such.
**Reason: In the interests of the amenities of local residents in accordance with Core Strategy Policy CSP40.**

8 The noise level from the operations of the car wash on the site must not exceed a level of 48 dB Leq, 15 mins, when measured in the rear gardens of Garden Cottages. In the event of a complaint being received in writing by the Local Planning Authority (LPA) alleging noise nuisance due to the operation of the car wash on the development hereby approved, and verified as a true and reasonable complaint by the LPA, the site operator shall, at its expense, employ a consultant approved by the LPA to measure the level of noise emissions from the operations at the location of, and external to, the complainant's property (or, in the event that access is not possible, at the nearest publicly accessible location acceptable to the LPA). The results of the consultant's assessment shall be provided to the LPA within 2 months of the date of notification of complaint unless otherwise agreed in writing by the LPA. The operator shall cooperate with the LPA to ensure that the development is compliant with the above defined limits for the site.
**Reason: In the interests of the amenities of local residents and in accordance with CSP40.**

PA reference :- 2016/0322




Barnsley MBC Licence Number 100022264, 2014

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**BARNSLEY MBC - Economic Regeneration**
Service Director: David Shepherd
Westgate Plaza One,Westgate,
Barnsley S70 9FD
Tel: 01226 772621

NORTH

Scale 1:1250