

Additional use for car servicing, repair and polishing and storage for 10 cars

**Report Item No
A6**

**Petrol Filling Station Ashby Road Boundary Swadlincote
Leicestershire DE11 7BA**

**Application Reference
16/00199/FUL**

**Applicant:
Mr Mohammed Shabir**

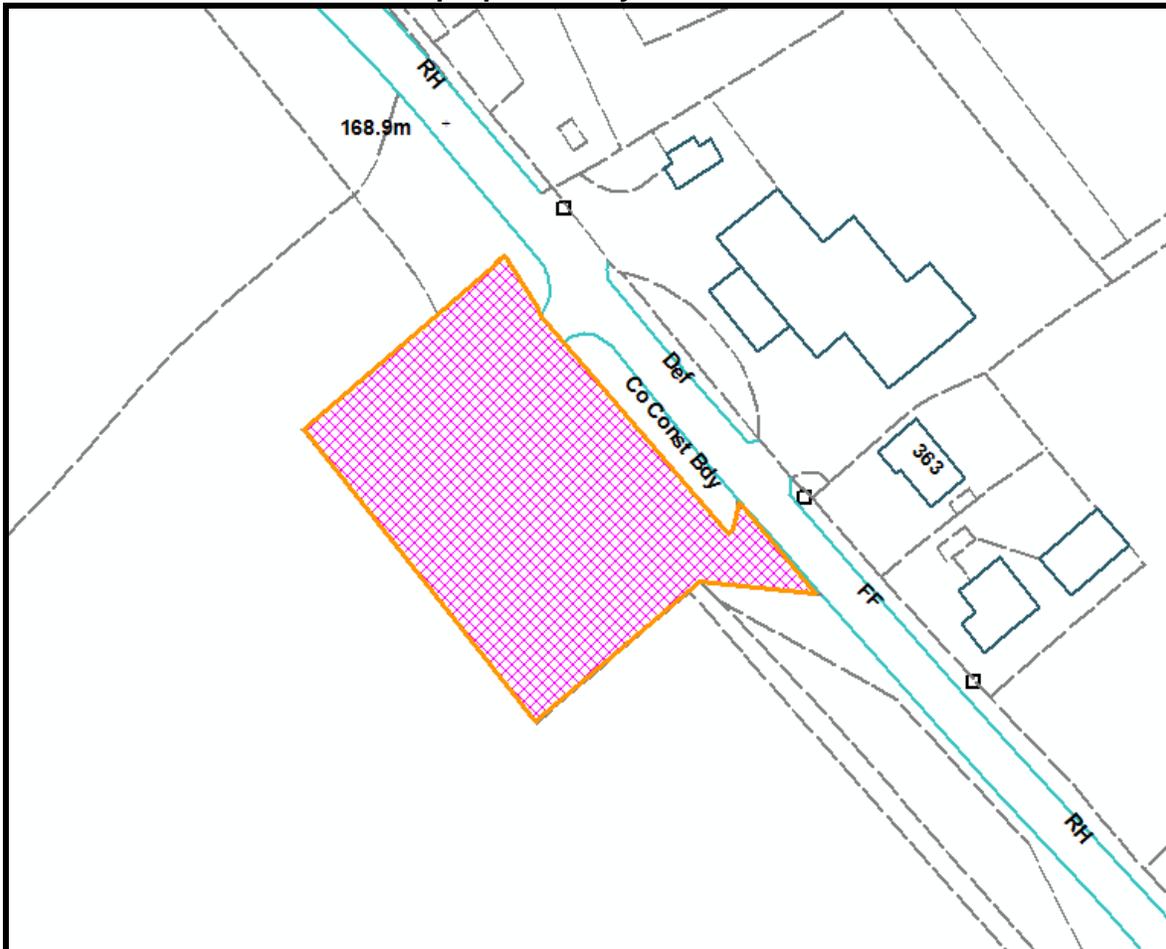
**Date Registered
18 February 2016**

**Case Officer:
Ebony Mattley**

**Target Decision Date
14 April 2016**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee, at the request of Councillor McKendrick on the grounds of impacts from dust, noise and pollution.

Proposal

This application seeks full planning permission for the use of the rear of the site for car servicing, repair and polishing and storage for 10 cars at the 'Gold Hand Car Wash' (Former Petrol Filling Station) Ashby Road, Boundary.

Planning permission ref: 15/00272/FUL was granted in 2015 for the change of use to a car wash with valeting.

Consultations

Members will see from the main report below that there are objections from 1 address to the scheme. There are no other objections raised from statutory consultees.

Planning Policy

The application site is located outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Conclusion

The site is brownfield in nature and the NPPF encourages this use of land, in principle. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, or highway safety and subject to the imposition of conditions, would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT, SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the additional use for car servicing, repair and polishing and storage for 10 cars at the 'Gold Hand Car Wash' (Former Petrol Filling Station) Ashby Road, Boundary.

Planning permission ref: 15/00272/FUL was granted in 2015 for the change of use to a car wash with valeting.

During the course of the application, following concerns raised by officers an amended plan has been received, showing the area of hardstanding and storage of cars, the area to be used for car servicing and amending the size of the metal storage container - to that of the approved container under application ref: 15/00272/FUL.

The site is a former petrol filling station located outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Planning History:-

15/00295/COU - Enforcement Enquiry - Material Change of Use - Pending Investigation

15/00272/FUL - Change of use to car wash with valeting - Approved - 28.05.2015.

2. Publicity

3 no neighbours have been notified (date of last notification 22 February 2016)

Site Notice displayed 4 March 2016

3. Consultations

NWLDC Planning Enforcement
Natural England
South Derbyshire District Council
Ashby de la Zouch Town Council
County Highway Authority
Environment Agency
Severn Trent Water Limited
Head of Environmental Protection

4. Summary of Representations Received

The following summary of representations is provided.

Ashby Town Council raise no objection.

Leicestershire County Council - Highways has no comment to make.

Environment Agency raises no objection, subject to condition.

Natural England raise no objections.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

A series of letters have been received from the occupiers of No. 365 Ashby Road, Boundary raising the following objections:-

- a) Site used as a scrap yard with damaged and written off cars stored at the back of the site;
- b) Lorries have been loaded up with scrap and taken away;
- c) There has been a metal building framework erected and portakabin placed at the front without permission;
- d) Burning plastic'
- e) Issues with electric supply since the car was opened;
- f) Signage has been erected, after the planning permission was given;
- g) There is no building for the tools and machinery for car repair business;
- h) The car wash has been used as a front for other activities on site - cover for a scrap yard business;
- i) The amount of scrap has increased;
- j) Noise from the car wash - loud vacuuming cleaning; and
- k) No further planning permission should be granted until the owner removes all scrap and tidies up the site, as directed by the Council's enforcement team

All responses from statutory consultees and third parties are available for Members to view on the planning file.

5. Relevant Planning Policy

National Planning Policy Framework

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 57 (Requiring good design)
- Paragraph 64 (Requiring good design)
- Paragraph 111 (Conserving and enhancing the natural environment)
- Paragraph 123 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside
Policy E3 - Residential Amenities
Policy T3 - Highway Standards
Policy T8 - Parking

Consultation Draft Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

S4 - Countryside
IF7 - Parking provision and new development
En2 -River Mease Special Area of Conservation

Other Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.
River Mease Water Quality Management Plan - August 2011.
River Mease Development Contributions Scheme - November 2012.

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, scale and design, impact upon residential amenity, highway considerations and impact upon the River Mease Special Area of Conservation/SSSI.

Principle of Development

The site lies outside Limits to Development and would fall to be considered against Policy S3 of the Local Plan. The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where "appropriate" and encourage the effective use of land by re-using land that has been previously developed (brownfield land).

The principle of the car wash use has already been established by the granting of the previous planning permission (ref: 15/00272/FUL). It was previously acknowledged that whilst the former use as a petrol filling station had ceased, it was not considered to be uncommon to find a car

wash use, associated with a petrol station.

The car wash element is set to be retained to the frontage of the site, with the proposed car repair, servicing and polishing proposed to the rear part of the site. It is considered that car repair and servicing would be a compatible use with the existing car washing and valeting services which already operate on site.

It is acknowledged that the application site is currently in a poor visual state and appears to be being used for the storage and dumping of car parts, however this is currently the subject of enforcement investigation and this application is being assessed based upon the description of development for the additional use for car servicing, repair and polishing and storage for 10 cars.

Overall whilst the site lies outside Limits to Development, it has consent for a car wash and valet, it is brownfield in nature, is not of a high environmental value and is not considered to compromise the aims of Policy S3 of the adopted Local Plan. Therefore, it is considered that the principle of this development on this site is considered acceptable, subject to all other matters being adequately addressed.

Siting and Design

The existing site would remain the same in terms of the visual appearance as there are no external changes proposed.

There is already an arc shaped area of hardstanding to the rear of the site. The scheme does not propose any additional hardstanding as a result of this application.

Impact upon Residential Amenity

The level of comings and goings to the site and various associated activities including vehicle manoeuvring, and opening and closing of car doors was already considered within the previous application. It was considered at that time, that when comparing the use (car wash) to that of the previous use as a petrol station, it would not be over and above that of the previous use. This, together with the distance to the nearest residential property, background noise from the existing road, and no objections being raised by the Council's Environmental Protection Team, led to no objections being raised on this basis.

It is not considered that the intensification of the site, by virtue of consenting car repairs to the rear of the site would result in any significant adverse impact upon the occupiers of neighbouring dwellings, for the same reasons as before - sufficient distance to neighbouring properties and the background noise from the existing road and also the existing car wash.

This application has similarly been considered by the Council's Environmental Protection Team who raise no objections.

Highway Considerations

The existing entrance and exit on Ashby Road, Boundary are to remain. The County Highway Authority raises no comments.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP).

The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. There is also a requirement to assess non-mains drainage schemes against the DCS as the discharge of foul waste into the ground can potentially adversely affect the SAC. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

Disposal of foul effluent

The applicant has indicated that there would be 2 additional employees as a result of the development.

The foul drainage arrangements are a cess pit/sewage tank, as per the previous application ref: 15/00272/FUL

The cesspit/sewage tank is a sealed, watertight tank that captures the sewage, and is not discharged into the ground or watercourse. The tank is then collected and the waste disposed of.

The Environment Agency have stated that there should be no discharge from the cess pit/sewage tank to groundwater or a watercourse and stated that the cess pit should be sealed and fitted with a high level alarm to ensure that sufficient warning is given for when the tank required emptying. The Environment Agency have also stated that all effluent from the car wash/valeting operations should be removed from site and taken to licensed facilities and that a condition be imposed with regards to the storage of oils, fuels, chemicals etc.

Natural England have confirmed that their observations remains as per application ref: 15/00272/FUL. Natural England state that it is important that the tank is properly maintained and emptied on a regular basis, and would need to know whether the foul water is to be disposed of within or outside of the catchment.

The Authority would normally therefore require the applicant to enter into a legal agreement to ensure that the waste would not be emptied into the River Mease SAC catchment (which would also avoid the need for a River Mease Contribution).

However, as per the previous application ref: 15/00272/FUL it was considered that within a former application ref: 13/00651/FUL Severn Trent Water confirmed that waste from such tanks does not go to any of the Severn Trent Water Waste Treatment Works within the River Mease SAC catchment area and that this arrangement will continue in perpetuity.

As there is no discharge in the ground/water course, then the Environment Agency are not the competent authority, and this falls to be this Authority. In respect of maintenance, should these systems be within 100 metres of watercourse then this is deemed to be close enough to result in waste being discharged into the ground and then ending up in the watercourse, but

beyond 100 metres is considered to be far enough away to not have a negative effect by the time it reaches the watercourse. Accordingly as the site is beyond 100 metres away from any watercourse there is no requirement for the Authority, as the competent Authority to secure maintenance.

Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Letters of Representation

In response to the letters of objection from a neighbouring dwelling that have been received during the course of the application:-

- A case has already been opened by the Council's enforcement team (ref: 15/00295/COU);
- The concerns raised regarding noise from the car wash is a separate consideration to this application seeking consent for car repairs and servicing and is being considered by the Council's Enforcement Team in liaison with the Council's Environmental Health Team;
- For the avoidance of doubt any advertisement would be subject to a separate advertisement consent and does not form part of this application;
- The issues with the neighbours electric supply is not a material planning consideration.

Conclusion

The site is brownfield in nature and the NPPF encourages this use of land, in principle. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, or highway safety and subject to the imposition of conditions, would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to the following conditions:-

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: Ordnance Survey (Scale 1:1250) received by the Local Planning Authority on 18 February 2016 and 'Plan 2 Proposed' received by the Local Planning Authority on 5 April 2016.

Reason - For the avoidance of doubt and to determine the scope of the permission.

- 3 The servicing, repair, polishing and storage of cars will be restricted to the area hatched and labelled as 'Car Repair Area' on 'Plan 2 Proposed' received by the Local Planning Authority on 5 April 2016.

Reason - For the avoidance of doubt and to determine the scope of the permission.

- 4 The storage of cars will be restricted to the areas shown in blue and labelled as such on 'Plan 2 Proposed' received by the Local Planning Authority on 5 April 2016. There shall be no more than 10 cars stored on these areas at any one time.

Reason - For the avoidance of doubt and to determine the scope of the permission.

- 5 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipe work, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason - To prevent pollution of the water environment.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 Contaminated waters / sludge resulting from site operations to be removed from site must be removed by a licensed waste contractor and taken to a licensed site for disposal. There should be no discharge of any contaminated water from the site to watercourse or groundwater.

The cess pit should be sealed and fitted with a high level alarm set to ensure that sufficient warning is given for when the tank requires emptying. There should be no discharge from the cess pit to groundwater or watercourse.

Clean surface water drainage should be directed to a soakaway where possible.

All wastes arising from activities on this site should be removed from site and taken to licensed facilities outside of the River Mease catchment.

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable for any off-site movements of wastes. The developer/ operator as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate permitted facility and all relevant documentation is completed and kept in line with regulations.

Information regarding guidance on good practice for vehicle washing and cleaning can be found within the following Pollution prevention guidance (PPG13): <http://publications.environment-agency.gov.uk/pdf/PMHO0307BMDX-e-e.pdf>

During construction and operation the developer should ensure that on site activities do not cause pollution. There should be no polluting emissions to air, land or water resulting from actions by the developer or by its sub-contractors. Pollution prevention guidance is available on our website. <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.