



09.00am - 16.00pm Saturday and  
10.00am - 14.00pm on Sundays, Public or Bank Holidays.

Reason: In order that the position may be reviewed at the end of the period stated.

- 3 a) Within 6 weeks of the date of this decision notice, a noise management plan detailing best practice to minimise noise disturbance from the car wash use shall be submitted to and approved in writing by the Local Planning Authority.

The management plan shall contain the following measures and details:

- Vendors should be asked to turn off their vehicle engines when the vehicle is not in use
- No idling should be allowed on site
- Vendors should be asked to keep the volume down to a level where it is unlikely to disturb neighbours
- There should be no events of live and unamplified live music taking place
- Music should not be played in the car wash area (this includes music from a stereo; hi-fi, radio, sound system; etc)
- Equipment should be maintained and serviced in accordance with manufacturer's specifications.
- Log book should be kept on site for complaints

- b) The development shall be implemented in accordance with such details as approved.

Reason: To safeguard the amenities of the locality and prevent disturbance to existing and future occupants thereof and in accordance with Policies CS9 of the Core Strategy (2012) and DM01, DM04 and DM17 of the Development Management Policies (2012).

- 4 Within 3 months of the date of this decision notice, a detailed external lighting scheme in connection with the car wash use, including siting of lighting columns, a site plan with lux lines, and the hours of operation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason: To safeguard the visual amenities of the locality and prevent disturbance to existing and future occupants thereof and to ensure the free flow of vehicular and pedestrian traffic and security of the site in accordance with Policies CS9 of the Core Strategy (2012) and DM01, DM04 and DM17 of the Development Management Policies (2012).

**Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan

## **Officer's Assessment**

### **1. Site Description**

The site lies on the south side of a busy main road. On adjacent land to the east of the site is a vacant garden nursery and to the west a row of detached residential dwellings which face onto the main road. A terrace of cottages in Glebe Lane back onto part of the western boundary. The site is partly within the Metropolitan Green Belt.

The site is physically separate from surrounding land and its boundaries clearly delineated. It is physically and functionally separate from its surroundings and comprises a separate planning unit. A series of workshop type units provide various car repair services and facilities. A certificate of lawfulness has been granted for use of the appeal site as existing car repair and servicing garage for repairs, servicing and MOTs.

The car wash operates in the south east corner of the site, taking place under three canopies. The car wash activities are located some distance from the nearest residential dwellings and other noise producing activities exist on the site, many nearer to the dwellings than the car wash.

### **2. Site History**

There is no specific planning history in relation to the car wash function on site. This has been deemed an acceptable, lawful use by the Planning Inspectorate - subject to conditions - in an appeal made by the applicant against a Planning Enforcement notice served by the Local Planning Authority.

There are a number of other operators on site, including an existing car repair and servicing garage for repairs, servicing and MOTs. These uses have been granted planning permission and more recently certified lawful under the following applications:

N00785 - Erection of car store, office and service bay. - Approved: 05.12.1966

B/04107/14 - Use of the existing car repair and servicing garage for car repairs, servicing and MOTs - Lawful: 26.09.2014

### **3. Proposal**

Following the Appeal Inspector's decision to allow the enforcement notice appeal to succeed, thereby granting conditional planning permission in accordance with the application deemed to have been made (i.e. the Lawful Development Certificate application, under B/04107/14, dated: 26.09.2014) under 177(5) of the 1990 of the Town and Country Planning Act (as amended), the following condition was prescribed:

*The premises shall not be open to customers outside the following hours:*

*08.00 - 17.00 Monday - Friday (inclusive);  
09.00 - 16.00 Saturday; and,  
10.00 - 14.00 Sunday and Bank Holidays.*

This application seeks to vary the above condition, to extend the prescribed hours. Initially the applicant applied for the hours of:

0900 - 1900, seven days a week.

Taking account of the previous Appeal Inspector's comments and subsequent discussions with Environmental Health, Officers considered these operating hours to be unacceptable, with a certain risk of nuisance to the neighbouring residential occupiers. However, through constructive discussions, Officers agreed a variation of the permitted hours of operation with the applicant for following:

09:00 - 18:00 Monday - Friday (inclusive)  
09:00 - 18:00 Saturday; and,  
10:00 - 15:00 Sunday and Bank Holidays

#### **4. Public Consultation**

Consultation letters were sent to 31 neighbouring properties. 129 responses have been received, comprising 30 letters of objection, 98 letters of support and 1 letter of representation.

MP Rt Hon Theresa Villiers has written in support of her constituents objecting against the proposed change of operating hours.

The objections and representations received can be summarised as follows:

- The car wash is very noisy and can be heard from the neighbouring gardens, preventing the enjoyment of private amenity space
- The car wash was previously denied permission by the LPA, but allowed on appeal of the enforcement notice, without any consultation
- The car wash causes traffic congestion on the main road which is a risk to pedestrian and motorist safety
- Constant noise from traffic queueing
- The listed comparative car wash establishments are not comparative as they are not sited within a semi-rural area
- The distance from the car wash to the objector's garden is reported incorrectly - it is much closer in reality
- The site has flood lights which are kept on at all times and shine into the windows of the objector's property 24hrs per day
- The car wash already operates outside of its permitted hours.
- The noise from the car wash can be heard from within the neighbour's house
- The car wash has de-valued the neighbouring properties
- The location of the business is inappropriate, the land is green belt.
- The majority of comments made in support of the application are from people who have their car washed at the premises, as opposed to live in the area.
- London Borough of Barnet should have closed down the establishment due to ongoing non compliance
- The car wash is an eyesore
- It is scandalous that Barnet Council are considering this application a Planning Inspector has adjudicated on an appeal sought by the owner of the site which clearly stipulates the operating hours of the car wash.
- It is a business and is clearly seeking to profit at the expense of the nuisance it causes to local residents.

- The Planning Inspectors' comments that the car wash "is likely to cause undue harm to the living conditions of nearby residents outside normal working hours".
- By operating outside of the stipulated hours the car wash has generated a demand for an out of hours service and has created a perception that a restriction is being imposed.
- The comparison with the opening times of other businesses on the site is inaccurate if the published information about two of the main businesses on site (Murphys Motors and AZ Motorcycles) is taken into account. Both of these businesses publish information showing that the former is closed on Saturday afternoons and both closed on Sundays.
- The inspector stated that "I do accept that the site, may give rise to unacceptable noise at times when other businesses are closed. This will prolong the period during which residents may be disturbed, including Sundays when car washing may be in demand and background noise levels lower than during the working week. I therefore conclude that the car wash....is likely to cause undue harm to the living conditions of nearby residents outside normal working hours."
- The current business causes civil conflict between the operator and neighbouring residential occupiers

## **5. Planning Considerations**

### **5.1 Policy Context**

#### National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The revised National Planning Policy Framework (NPPF) was published on 24th July 2018. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth. It is a material consideration in planning decisions. Similar material considerations are the Government's planning policy for traveller sites, and its planning policy for waste as well as Written Ministerial Statements where relevant to planning decisions.

Existing policies in Barnet's Local Plan (2012) and the London Plan (2016) should not be considered out-of-date simply because they were adopted prior to the publication of the revised NPPF. Due weight should be given to them, according to their degree of consistency with the revised NPPF

## The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The London Plan is currently under review. Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the adopted London Plan

## Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

## Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

## **5.3 Assessment of proposals**

This application solely proposes a variation of a condition to change the hours of operating times prescribed by the Appeal Inspector, and thus there are no built physical forms proposed, and thus, no harm to the character and appearance of the application site, its vicinity, the wider locality or the openness of the Metropolitan Green Belt within which it sits. The impact of the car wash on the Green Belt is a matter that the Appeal Inspector addressed in the appeal decision, citing that *the car wash use does not adversely affect the openness of the area*. The Local Planning Authority acknowledge and accept this observation.

There are a range of existing lawful uses on the site (inclusive of car repair and servicing garage for repairs, servicing and MOTs) which are engaged in noisy activities relative to their established functions. The operating hours of these uses are not controlled by any planning conditions approved under planning permission referenced: N00785.

It is understood that the car wash as one of these uses has the potential to cause statutory nuisance and annoyance to the neighbouring residential occupiers outside of normal working hours - as remarked by the Appeal Inspector - and Officers note that the majority of the objections received from neighbouring residents concerned the breach of current prescribed operating hours, noise disturbance from the car wash activities and light nuisance from the flood lights on site which are alleged to be left on 24 hours-a-day. Notwithstanding this, at present the Local Planning Authority (LPA) and Environmental Health (EH) have insufficient evidence to conclusively state that a minor extension to the hours of operation would demonstrably harm the residential amenities of the neighbouring occupiers over and above the existing operational hours.

The proposed operating hours of Mon-Fri: 09:00-18:00 / Sat: 09:00-18:00 / Sun & Bank Hol.: 10:00-15:00 as amended have been agreed with the applicant and EH officers would be supported on a temporary basis of 9 months to enable the LPA to properly monitor if there would be any adverse impacts resulting from the extended hours of use on the amenities of the neighbouring occupiers

Officers considered these to be reasonable extension of hours in respect of both business operator and the neighbouring residents. Starting one hour later and closing one hour later in the weekdays is unlikely to be noticeable to the majority of residential occupiers, whom will leave and return from work around these times. For many people and businesses, Saturday is a full working day in which activity, even in semi-rural areas is to be expected, and therefore, it is not considered that an additional two hours of operation on this day of the week would be demonstrably harmful to the amenities of the neighbours. Sundays and Bank Holidays are acknowledged to be the most sensitive days, given the typical trading hours in most localities - and thus, one additional hour is considered the absolute maximum that could be agreed in order to minimise the potential disturbance of neighbouring occupiers.

It is considered that this temporary variation to the operating hours would enable both the Local Planning Authority and Environmental Health team to monitor the operation of the car wash business' over a reasonable timeframe and gather data from any complaints and their subsequent outcomes (e.g. warnings issued / enforcement notices for breaches of conditions and statutory nuisance) to inform any future decision-making on the longer-term hours of operation of the business. A noise management plan setting out the prescribed measures and practices (e.g. engines off when not required / no music or in-car radios etc) necessary in order to minimise the potential of disturbance to the neighbours is recommended as a planning condition to ensure that certain practices are specified and therefore enforceable.



With respect to the existing flood lighting on site, this did not form part of the Appeal Inspector's assessment as the primary consideration was about determining the lawful use of the car wash operation and establishing its operating hours. Accordingly, the flood lighting is also not directly under consideration in this application as it relates to a variation of the hours of operation. Notwithstanding this, it is recognised that the operation of the car wash in the winter months may be dependent on the lighting and given the number of objections raised with regard to the flood lightings impact on neighbouring amenities it is considered both relevant and reasonable for Officers to recommend a planning condition prescribing the submission of further details on the setup and operation of the flood lighting specifically used in association with the car wash business to minimise potential light nuisance to neighbouring residential occupiers.

#### **5.4 Response to Public Consultation**

Officers have reviewed and considered the concerns raised through the public consultation process and addressed these where possible in the above Officer assessment of the scheme.

Other matters are addressed as follows:

- The Local Planning Authority with Environmental Health will use the temporary nature of the proposals to undertake monitoring for the suggested period to check compliance and use it to inform any future decisions with respect to changes to the hours of operation. The NPPF is clear on ensuring that that planning uses are sustainable and that decisions made should ensure that economic, environmental and social objectives of the overarching strategy should be balanced to enable a desirable outcome where these uses are compatible without unacceptable impacts to either. Should it be substantiated over the monitoring period that unacceptable harm is being caused to neighbouring residential occupiers then it is only fair and reasonable in the aims of sustainability to not allow any future harmful circumstances in any future applications made.
- Civil disputes between parties (business operator and residents) are not a material planning consideration and therefore outside the scope of consideration for this assessment.

#### **6. Equality and Diversity Issues**

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

#### **7. Conclusion**

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval for a temporary period of 9 months for the reasons outlined in the above appraisal.

