

Recommendation: **GRANT PERMISSION**

Condition 5 of planning permission 170555/5, dated 21 June 1984, shall be

varied to read: Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987, as amended, no additional plant or machinery other than portable hand tools and equipment associated with car valeting, shall be installed or used without the written consent of the Local Planning Authority.

Reason: *In the interest of amenity and in accordance with Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework.*

Condition 3 states:

Condition 7 of planning permission 170555/5, dated 21 June 1984, shall be varied to read: Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987, as amended, the land (other than the building) shall be used only for the purpose of car sales, access and the parking and turning of vehicles in connection with the garage use. However, the spaces numbered 1-5 on plan drawing 121.21.01 (revision b), submitted with the current application, may also be used for the purposes of car valeting, provided that the hours of use do not exceed 9am - 6pm Monday to Saturday and do not exceed 10am - 4pm on Sundays.

Reason: *In the interest of amenity and in accordance with Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework.*

APP/17/00244 - Retention of 1No. externally illuminated fascia sign and 1No. externally illuminated freestanding sign., PERM,31/05/2017

3 Proposal

As originally submitted the proposal sought permission to extend the hours of operation of the car valet business operating from Unit D from 07:00 to 20:00 Mondays to Saturdays and 10:00 to 16:00 on Sundays; with car parking spaces 1-13 being used for car valeting purposes.

During the course of determining this application, the hours were reduced, and unit C included, amending the description of development to:

Variation to condition 3 of Planning Permission APP/15/00030 to allow car parking spaces 1-13 to be used for the purposes of car valeting in association with units C and D; also to allow the opening of the car valeting service from 08:00 to 19:00 Mondays to Saturdays and 10:00 to 16:00 on Sundays. (Revised details)

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS2	(Employment)
CS4	()
DM10	(Pollution)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM3	(Protection of Existing Employment and Tourism Sites)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
AL3	(Town, District and Local Centres)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 **Statutory and Non Statutory Consultations**

Developer Services, Southern Water

No comment re Variation of condition 3. Sewers cross site and require easements; no new development or tree planting should be within easements; no new soakaway within 5m of any sewer; noted existing development lies over sewer and any changes to the building the applicant should contact SW; Informative requested re connection; foul water should not dispose into surface water sewer; responsibility of developer to make suitable provision for disposal of surface water;

Areas used for vehicle washing should only be connected to the foul sewer after consultation with Southern Water.

The applicant is advised to discuss the matter further with Southern Water's Trade Effluent Inspectors. Please see

<https://www.southernwater.co.uk/BusinessCustomers/wasteServices/tradeEffluent/> for further information.

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

Environment Agency

None received

Environmental Health Manager

Site Drainage

We have discussed this issue at some length, and I think that it would be helpful to summarise some points here to provide the background for my recommendation in this respect;

- ☐ Both public foul, and public Surface Water sewer services are present at the site
- ☐ Surface Water Sewers fall, and ultimately discharge to a culverted section of the Hermitage Stream, a 'Main River' and therefore a 'Controlled Water'.
- ☐ Drainage was not considered as a material planning issue under APP/11/01505 or APP/15/00030
- ☐ Southern water raised no objection "for a Variation of condition application" under 11/01505, and used the same wording in their response to 15/00030
- ☐ EH responded to 15/00030 on basis of external use of machinery only. Pollution case notes were for no adverse comment, as no change to existing use (was making permanent a temporary consent for external use) [no record of consultation response found as regards 11/01505]

- ☐ The Environment Agency were not consulted on either application

It is considered likely the Southern Water responses were made on the basis of a consultation screen - application summary was 'variation of conditions', and referred to 'valet' and not 'washing'. In this way, it is entirely possible that the relevance of the activity to Southern Water was missed at the consultation stage.

It is likely that Environmental Health missed the potential significance of these applications for the same reason, especially given the minimal nature of the supporting

documentation. Given the particulars of the application, the Environment Agency probably would have either missed the potential significance of the application (as discharge to surface water would be via SWS infrastructure), or would have deferred to Southern Water as the appropriate body to seek to ensure appropriate drainage arrangements are in place.

As we've discussed, it is understood that the term 'valet' does refer to commercial vehicle washing. It is not clear at this stage what the drainage arrangements are at the bays consented for this activity, or at the bays currently used for this activity outside of any valid consent.

Wash water is considered to be a trade effluent, and is likely to contain substances which are likely to be detrimental to the ecological quality of surface waters. There is no indication that appropriate drainage amendments have been made in order to direct this washwater to foul, as required by the Water Industry Act 1991.

It is considered that granting consent for a vehicle washing business activity in the absence of clarity on appropriateness of drainage arrangements would be policy DM10, and I would normally (therefore) recommend refusal or that appropriate measures be secured by condition.

In this case, it is acknowledged that the vehicle wash use has not previously been picked up, and that the applicant currently has consent, albeit for only part of the site subject to the current application. I am mindful that this application arose from an enforcement case, and I am reluctant to recommend conditions that are likely to be immediately breached, unless the applicant cease trading until they are complied with. In the interests of proportionality and consistency, it is considered in this instance appropriate to insert an informative on any consent granted, highlighting the applicant's duties & liabilities in this respect. See italic text below for suggested informative.

*"This consent relates to vehicle washing facilities, and waste water arising from this activity is considered to be 'foul' water, and to be a trade effluent. Surface water sewers in the vicinity of this site are known to discharge to The Hermitage Stream, a 'main river' & 'controlled water', located <1km to the east. In order to prevent pollution of the environment and/or controlled waters with detergent*1 and other automotive contaminants, areas used for vehicle washing must be connected to foul sewer, or must be subject to appropriate pre-treatment prior to being discharged to a non-mains sewerage.*

Proposing to discharge to non-mains foul sewerage via treatment plant -

*If you wish to discharge effluent to groundwater or surface water ("controlled waters") after appropriate treatment, a permit will be required*2. A permit may also be required for discharge to a surface water sewer which communicates directly with a controlled water. For further information, please contact the Environment Agency (Tel: 03708 506 506).*

Proposing to discharge to mains sewerage -

*A trade effluent consent or a trade effluent agreement must be obtained before you discharge trade effluent to either a public foul sewer or a private sewer that connects to a public foul sewer*3.*

It is not permitted to discharge foul water to a public surface water sewer, irrespective of whether the discharge is direct or indirect. For further information, please contact Southern Water (0330 303 0119)

The granting of this planning consent does not convey any permission, approval or consent under either the Water Industry Act 1991 or Environmental Permitting Regulations 2016, nor does it guarantee that the necessary consents or permits will be issued in respect of trade effluent discharge.

If you are not able to discharge effluent to a sewer or in accordance with a valid environmental permit, it will be classed as waste and you must then comply with your duty of care responsibilities when making alternative disposal arrangements.

**1 - Phosphate containing detergents and any detergents containing chemicals that act as a surfactant are harmful to the aquatic environment.*

**2 - Section 38(1) of the Environmental Permit Regulations 2016 makes it an offence to undertake a regulated activity without an appropriate permit.*

**3 - Section 118 (5) of the Water Industry Act 1991 makes it an offence to discharge trade effluent to sewer without the consent of the sewerage undertaker." Section 109 (1) of the Water Industry Act 1991 makes it an offence to (directly or indirectly) discharge foul water to a public surface water sewer."*

Hours of Operation, Noise

I have searched our complaints record, and despite your indication that you were aware that complaints had previously been received by the Council in respect to the use of equipment outdoors at this site, complaints do not appear to have been directed to Environmental Health, and it does not appear that we have been made aware of any complaints (other than relating to employee health & safety).

It is possible that the reason we have had no noise complaints from this activity is that the permitted hours (alongside any 'in-practice' unconsented trading period 'overspill') is not unreasonable, and the restriction of activity to these hours is effective in avoiding nuisance.

Alternatively, it could be that the noise from the activity is such that the trading hours 'overspill' does not affect local residents, and a further extension of hours is not likely to lead to complaints of nuisance.

It is very difficult to determine which scenario is likely. I am minded not to seek punitive refusal of a business activity that is not problematic, however the hours applied for do fall outside the range normally considered to be reasonable for noisy activity.

I would support regularisation of working hours to those currently operated at the site 'in practice', i.e. 8am to 6pm, 10:00 am to 16:00pm Sundays) on a permanent basis.

If you are minded to extend both ends of the working day, I would recommend that this be granted as a temporary consent for a fixed period (say 12 months) to see if complaints arise. If we have not received any complaints following a year of operation at the extended hours, we would have no basis to object to the change being made permanent.

Hours of Operation, Light

I note that the external working areas are in line of sight to habitable rooms at the rear of residential properties at Wellesley Close. The extended working hours would increase the period working by artificial light, especially in Winter Period.

It is understood that floodlighting is to be provided, to be directed onto the yard, and switched off at the end of the working day. It is not clear whether there is an increased likelihood of nuisance, but I note the implication that lights will be angled down, and face away from properties at Wellesley Close, or Flats above Commercial Property on London Road (closest expected to be no. 248).

As above for noise, we have no complaints on file relating to light during the current 'in practice' trading period; and so the same logic applies. If you are minded to grant consent for extended working hours, I would recommend that this be done for a temporary period in order to establish whether significant issues arise.

Officer Comment

These comments and request for a temporary permission to assess the impact were made based on the original 7am to 8pm submission - no-reconsultation of the amended hours was undertaken - but it is not considered necessary to impose a temporary consent for the amended reduced hours which are more in line with normal noisy activities. - see section 7 below.

Development Engineer

It would appear that all the parking spaces associated with units A,B,C and D are to be used by unit D for valeting. I would like to know if parking spaces are assigned to each unit and if so how the units can function without them.

Hampshire Constabulary

None received

Economic Development

The application can be supported for the variation in working hours.

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 52

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: **1** letter of objection

Comment	Officer Comment
<p>Background:</p> <p>1. Although adjacent to the town centre, this area has been predominantly residential from Victorian times. Our properties were built in the 1950s.</p> <p>2. The current retrospective application is the latest in a series brought about by failures to comply either with planning regulations or the conditions imposed as part of previous consents.</p> <p>3. Over the years the site operator has invested in more powerful pressure washers, vacuum cleaners and more recently high pressure air plant machinery which has been installed without the requisite permission as required by the last planning consent.</p> <p>4. Much of the time work starts before the prescribed hours and ends after. As an example; they have been observed starting pressure washing on a Sunday morning at least 90 minutes before the prescribed time.</p> <p>5. The noise generated by the industrial size equipment is pervasive; it is exacerbated by shouting and above all the practice of opening car doors and playing the sound system at an unacceptable volume. This can be classed as a public performance in contravention to performing rights rules.</p> <p>6. Overall, the noise generated is most deleterious to the enjoyment of the amenity of our home and garden.</p>	<p>Noted</p> <p>Enforcement enquires led to this application.</p> <p>Condition 1 of APP/15/00030 limits tools to <i>equipment associated with car valeting</i> to be used - the equipment on site is used in association with car valeting and therefore needs no further consent</p> <p>Any breaches need to be reported to the Enforcement team and a log kept</p> <p>See section 7.</p>

7. It is considered the High Pressure Air system is being used in a hazardous manner. It is been used to blow detritus from cars. This is being done next to a public pavement without due regard for the safety of the public or the employees.

Objection:

1. We object most strongly to this application. The applicants have proved themselves to be incapable of complying with previous conditions. As outlined above, the current situation is at times intolerable. The industrial scale noise exacerbated by unnecessary music and shouting is deleterious to the enjoyment of our residential amenity. For this behaviour to be permitted from early in the morning until late into the evening would be most unacceptable.

Recommendations:

1. The current working hour constraints should be enforced and any retrospective application to install HP Air plant machinery should be refused.
2. Should they wish to conduct this industrial scale operation at all hours I strongly suggest they relocate to an industrial site away from a residential area.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact on amenity and neighbouring properties
- (iii) Parking
- (iv) Drainage

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The site relates to a group of established commercial premises that have a lawful planning use, located in a town centre location, adjacent a public car park. Therefore there is a strong presumption in favour of retaining this current employment site in the town centre, supported by Policies CS2, CS4 and DM3.

When the recent application for signage was considered, it came to light that the

authorised hours of 9am - 6pm Monday to Saturday and 10am to 4pm on Sundays was not being adhered to. As amended, this application seeks longer opening hours of 8am - 7pm Mondays to Saturdays whilst retaining the existing 10am to 4pm on Sundays. In addition this application also seeks permission for the car valet business to operate out of unit D and for the parking spaces 1 - 13 to be used in connection with the car valet business.

Although there are some residential properties in reasonably close proximity to the site, the character of the area is almost exclusively commercial. Subject to the application meeting all other relevant development plan criteria, it is considered that there are no 'in principle' issues that would automatically preclude any modification or enhancement of the scale of commercial activity taking place in this predominantly commercial area.

(ii) Impact on amenity and neighbouring properties

As originally submitted the hours sought were 7am - 8pm. Whilst the immediate area is commercial units adjacent a public car park, there are nevertheless some residential properties above the London Road shops to the north and in Wellesley close to the south. The car valet use largely operates outside with the use of jet hoses and high pressure air. There is no doubt that this generates a certain level of noise; and it is also alleged that the staff play car radios with doors open whilst cleaning cars.

This use is already permitted and the application must consider the impact of extended hours of the use, the expansion into Unit C, and the associated noise resulting from this intensification of the use. It must also be noted that Units A & B do not have any limiting hours condition at all and can operate unrestricted. As originally submitted it was considered that 7am was too early and 8pm too late, representing an unreasonable intrusion into nearby residential amenity. This would have been contrary to policy CS16 and DM10 that seek to protect residential amenity and pollutants.

The applicant seeks the extended hours citing demand for the service. This support for the town centre business must be balanced with any harm caused and therefore an 8am start with 7pm finish has been negotiated. At these hours the surrounding roads are likely to be busy providing increased background ambient noise and activity against which the jet wash would be heard and be less invasive. The Environmental Health Officer has noted that no noise complaints have been received by them for the current business operation. He also notes that an 8am start is a fairly standard start time for a 'noisy' activity, with a 6pm finish.

However, whilst a 6pm finish is more normal, given the sites location adjacent a busy cut-through road (Rockville Drive) and public car park that is accessible 24hrs; then the extra hour to 7pm is not considered unreasonable and it is not considered necessary to issue a temporary consent to assess the impact of this extra hour. The letter of objection states that the noise generated by the industrial size equipment is pervasive and the hours not complied with, particularly on Sundays. This is a matter for the management of the business and once permitted with hours conditions, then these hours would need to be strictly complied with - any reported breaches would be subject to future Enforcement Investigations.

The objector also points out that increasingly powerful equipment is being used. However the type of tools that can be used on site is controlled through condition 1 of APP/15/00030 which states that "*....no additional plant or machinery other than portable hand tools and equipment associated with car valeting, shall be installed or used without the*

written consent of the Local Planning Authority.". Whilst the high pressure air plant machinery is not a hand tool, it is nevertheless directly used for car valeting. As such it is considered to be covered by this condition and not require any further consent in its own right.

On balance it is considered the intensification of the use with extended opening hours, whilst would have some noise impact, given the context of the site, the additional impact would not be so significant as to warrant a refusal based on amenity grounds.

(iii) Parking

The Development Engineer commented on the original submission and noted that the use of spaces 1-13 for just Unit D would leave unit C with no parking spaces. Clearly this would be unacceptable and since Unit C was vacant, the applicant has instead extended his operation into Unit C aswell. On this basis the use of parking spaces 1-13 for both units equates to the appropriate parking allocation of the wider site and as such there is no highway objection to this arrangement. Policy DM14 would be complied with.

(iv) Drainage

It has been noted by Environmental Health and Southern Water that 'Wash Water' is considered to be a trade effluent, as it is likely to contain contaminant/pollutant substances. Accordingly waste water should not dispose into surface water sewer and should be connected to the foul sewer after consultation with Southern Water. This is however an existing business use and it is understood that the appropriate drainage is already in place. This application is for an extension of hours and expansion into the adjacent unit - this intensification of use may marginally increase waste water, and hence it is recommended that an Informative be added to advise the applicant to discuss the matter further with Southern Water's Trade Effluent Inspectors.

8 Conclusion

As amended the proposed variation to condition 3 of APP/15/00030 is considered acceptable in principle - given the sites context of a predominantly commercial area, and on a site that has a lawful use, the earlier and later opening times and expansion into Unit C would not materially increase any harm to neighbouring amenity. The application is therefore recommended for permission.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/17/00568

(A) subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and

Compulsory Purchase Act 2004.

- 2 Notwithstanding the provisions of Schedule 2, Part 7, Classes H and I of the Town and Country Planning (General Permitted Development) Order 2015, or as amended, no extensions or building alterations shall be made to the garage building on the site without the prior approval of the Local Planning Authority.
Reason: In the interest of the visual amenity of this town centre site, and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987, as amended, no additional plant or machinery other than portable hand tools and equipment associated with car valeting, shall be installed or used without the written consent of the Local Planning Authority.
Reason: In the interest of amenity and in accordance with Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework.
- 4 Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987, as amended the building shall be used only for the purposes of effecting welding, crash repairs, re-spraying, mechanical work, in connection with a vehicle repair business and for MOT, tyre sales and fitting and car valeting only. With the exception of car valeting, no such works shall be carried out on the open areas of the site.
Reason: In the interest of amenity and in accordance with Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework.
- 5 Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987, as amended, the land (other than the building) shall be used only for the purpose of car sales, access and the parking and turning of vehicles in connection with the garage use. However, the spaces numbered 1-13 on plan drawing 121.21.01 (revision b), received on 19 July 2017, may also be used for the purposes of car valeting in connection with the combined use of Units C and D.
Reason: In the interest of amenity and in accordance with Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) and National Planning Policy Framework.
- 6 The car valet business shall operate out of units D and C combined, and at no time shall either unit be let or occupied by an alternative business separately, without the prior approval of the Local Planning Authority.
Reason: To maintain the correct parking space allocation for each unit, in the interests of satisfactory parking on site, and having due regard to policies DM14 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 7 No external floodlights shall be installed unless plans and particulars specifying the details of any external lighting, including height, siting, direction and level of luminance, has been submitted to and approved in writing by the Local Planning Authority. There shall be no external lighting on the site other than as thereby approved.
Reason: To safeguard the amenities of the locality and/or in the interests of

traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 8 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the garage building shall be kept fully available for their intended purpose. Spaces 14 to 18 (as shown on plan drawing 121.21.01 (revision b), received on 19 July 2017) shall be kept available for units A and B; and spaces numbered 1-13, may also be used for the purposes of car valeting in connection with the combined use of Units C and D.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 9 The car valeting business in Units C and D shall only be open for trade or business between the hours of 08:00 and 19:00 Monday to Saturday and 10:00 to 16:00 on Sundays.

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 The development hereby permitted shall be carried out in accordance with the following approved plans:

Block Plan/site Plan 1:500

Site Plan 1:200 Drawing number 121.21.01 revision b received 19 July 2017 identifying Unit C for Car Valeting

Reason: - To ensure provision of a satisfactory development.