

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From: Environmental Health **To:** Development Control

Our Ref: CONS/17/01222 **Your Ref:** APP/17/00568

EH Case Officer Extn: 44 6677 **Date:** 16 June 2017

DC Case Officer: Tina Pickup

DC Case Officer Extn: 44 6461

Application Number: APP/17/00568

Site Address: Unit 1, Victoria Road, Waterloooville, PO7 7ET

Proposed Development: 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; also to allow the opening of the car valeting service from 07:00 to 20:00 Mondays to Saturdays and 10:00 to 16:00 on Sundays.

Observations / Comments:

I have reviewed the information submitted in support of this application, which I note has been kept to a minimum.

I would concur with the highways comments, in that it would appear that Unit D is seeking to use 2 spaces allocated to one on the units A-C, and it is not clear whether they have entitlement to use. Obviously this is not a pollution issue, other than as it relates to surface water drainage arrangements & trade effluent consent (etc.) which I will cover in the sections below:

It is understood that this application is to some extent, for the purpose of regularising existing business activity for which the applicant did not seek consent. Whilst this is largely the case, it is not regarded as being safe to assume that the business activity currently undertaken at Unit D;

- necessarily uses all of the spaces included in this application, or
- is operated over the full range of hours that are subject to the requested amendment.

It is understood that representative typical business hours are likely to fall between 8:00am & 18:00pm.

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 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.

Best Regards,

Mr. Jonathan Driver
Environmental Control Officer