

The information, recommendations and advice contained in this report are correct as at the date of preparation, which is more than two weeks in advance of the Committee meeting. Because of these time constraints some reports may have been prepared in advance of the final date given for consultee responses or neighbour comment. Any changes or necessary updates to the report will be made orally at the Committee meeting.

Case Officer	Chris Jones
Application No.	20/00310/FULPP
Date Valid	30th June 2020
Expiry date of consultations	21st July 2020
Proposal	Widening of existing dropped kerb, erection of canopy and continued use of premises as a mixed use comprising car wash and valeting and MOT testing station and vehicle repairs
Address	The Old Bakery Hawley Road Blackwater Camberley Hampshire GU17 9ES
Ward	Fernhill
Applicant	Mr Fraz Zaman
Agent	C T Foo Associates
Recommendation	Refuse and Enforcement Action

Description

The application site is located on the north-eastern side of Hawley Road, the New Inn public house adjoins it to the north, while to the south is Clayton House, a former office building that has been converted to flats. To the rear are houses in Ashbury Drive while on the opposite side of the road are the grounds of Fernhill School. There are two workshop buildings on the site, set in an open, hard-surfaced yard.

The site has an extensive history of commercial use, which apparently pre-dates the inception of the current planning system. Since the area was transferred to Rushmoor Borough Council's administrative area, the following planning applications were received: 15/00429/FUL – which was for “Erection of side extension and associated works to form an MOT testing bay within garage store following demolition of existing front extension”, which was granted on 04.08.2015 and 16/00304/NMA – which proposed some non-material amendments to the previous scheme, and was approved on 21.04.2016. Finally, planning application 18/00565/FULPP for “Demolition of existing buildings and erection of a two-storey building with accommodation within the roof-space containing 4 one-bedroom flats and 1 two bedroom flat with associated parking” was received in July 2018. The application was found to be invalid as it included land belonging to the adjacent public house and Notice had not been served upon the owners of the public house. The applicant was unable to rectify this issue and the

application was therefore never validated or determined.

In May 2020, queries were received from members of the public concerning a sign that had been erected at the site, announcing that a hand car wash would be opening soon at the site. Enquirers were advised that planning permission would be required for such a use and that no such application had been received. However, since the use of the site as a car wash had not been commenced at that time, there was no breach of planning control.

Contact was made with the operator, who was advised that planning permission was required for the change of use of the premises to include a car wash. He was advised that if he commenced the use before obtaining planning permission, or undertook any works requiring planning permission, he did so entirely at his own risk. Reports were received on 1 June that the use had been commenced and this was verified by the Case Officer. It was determined that while the southernmost of the two buildings remained in its original use as a workshop/MOT testing centre, the rear wall of the northern building had been removed to create a drive-through car wash – vehicles to be washed are driven into the site between the two buildings and are then washed to the rear of the new building and then valeted within the building before being driven out forward to be collected.

The current application was validated on 30 June and seeks retrospective planning permission for the continued operation of the car wash as part of a mixed use and works associated with this, together with permission for the widening of the dropped kerb at the front of the site and for the erection of a canopy to the rear of the building, over the area where cars are washed.

Waste water from the car washing area is directed to the foul sewer running through the site. Fence panels approximately 1.8m have been erected on either side of the washing area.

The hours of business as stated on the application form are Monday to Saturday 0800-1800 and Sundays -0800-1700.

Consultee Responses

HCC Highways Development Planning	No Objection
Environmental Health	Objection
Thames Water	No Objection.

Neighbours notified

In addition to posting a site notice and press advertisement, 23 individual letters of notification were sent to properties in Hawley Road and Ashbury Drive.

Neighbour comments

A petition containing 49 signatures has been received, opposing the application on the grounds of adverse impact on residential amenity, concern over adequacy of drainage and lack of need for car wash in this location, there being an existing car wash close by.

Individual letters of objection have been received from the occupiers of 2, 3 and 4 Clayton House, Hawley Road and 17, 34, 36, 38, 40, 42, 46, 48 Ashbury Drive, opposing the application

on the grounds that:

- The use has a significantly greater impact on residential amenity through noise and vehicle movements than the previous use of the site, and severely detracts from their residential amenity.
- The sewers are inadequate to accommodate the flow of wastewater from the site and could result in the flooding of adjoining properties with sewage and pollution of local watercourses,
- The business has operated outside of the hours of opening indicated in the application and is likely to continue to do so, if planning permission is granted, to the detriment of residential amenity.
- That the additional vehicle movements to and from the site are likely to increase the risk of accident on Hawley Road and conflict with the adjacent vehicular access serving Clayton House.
- There are no dedicated parking bays for users of the car wash or the MOT centre/garage.
- There is an existing car wash nearby and therefore there is no requirement for another such facility in the area.
- The lack of any staff waiting facilities results in staff congregating at the front of the premises between customers, which is intimidating to the occupants of the adjacent residential building and detracts from their amenity.
- Increased traffic through the site will increase air pollution.
- The business is of a cash-in-hand nature and is of a type where victims of modern slavery may work and where other nefarious activities may take place.

Cr Ken Muschamp has raised objection to the proposal on the grounds that: The proposal will cause additional drainage issues for residents to the rear in Ashbury Drive. The quiet enjoyment of the living space of the residents will be irreversibly damaged by another unneeded car wash facility. There are fears and issues related to people trafficking which it is known this type of operation attracts. It also fails to meet Rushmoor clean growth objectives to attract high skilled occupations for local residents, reduction of car use and ownership and greater take up of walking and cycling.

Policy and determining issues

The application site lies within the defined urban area on the Policies map of the Rushmoor Local Plan and Policies IN2 (Transport), DE1 (Design in the Built Environment) and DE10 (Pollution) are relevant, as is the Council's Car & Cycle Parking Standards Supplementary Planning Document and relevant sections of the National Planning Policy Framework.

The main determining issues are considered to be the principle of the proposal, impact upon general amenity and the character of the area, impact upon residential amenity, impact upon highway safety, disposal of waste water and other matters.

Commentary

Principle-

The application site is a well-established commercial site and a proposal to change it to a new but different commercial use is considered to be acceptable in principle, provided that it would not adversely affect visual amenity and the character of the area, residential amenity or highway safety, and in this particular case, that wastewater can be effectively dealt with.

Impact on Visual Amenity and Character of the Area-

It is considered that the change of use of part of the premises to a car wash and the modifications made to the buildings have had, and those shown on the plan and yet to be undertaken, would have had little impact on visual amenity or the general character of the area.

Impact upon Residential Amenity-

The use of the car wash commenced on 1st June 2020 and it has therefore been possible for Council Officers to determine accurately adverse impact of the use on residential amenity from monitoring. It has been shown that noise from the jet wash and vacuum cleaners is the principle source of impact on residential amenity. Residents opposing the development in Ashbury Drive have commented that their rear gardens have become unusable, due to excessive noise.

Environmental Health carried out noise monitoring from the gardens of two properties on Ashbury Drive on Saturday the 18 July. They found that despite the proximity of Hawley Road and the M3 motorway, the properties visited do enjoy relative quiet. While distant road traffic noise is audible, it was at a relatively low level.

At property 1, one hour of noise measurements was carried out from 09.15. During this one-hour period there were 10 events of jet washing activity noise, the longest of which lasted 10mins. In total, jet washing took place for a total of 30 minutes, during this one-hour period. At property 2, measurements started at 11.00 hours and lasted 55 minutes. There were 6 events during this period lasting a total of 16 minutes, but there was also a period of 25 minutes during which no jet washing took place at all.

When jet washing is occurring, it was clearly the dominant noise source audible in resident's gardens. It masked most road traffic noise, except the noisiest of motorcycles or heavy goods vehicles passing along at speed on Hawley Road. On occasion, the jet wash noise was accompanied by a compressor or generator type noise that itself can be quite intrusive. The measurement results indicated that noise from the jet wash activities was significant when assessed against the existing ambient noise and background noise levels when no jet washing was taking place.

The measurements taken were not worst case. Monitoring at property 1 was carried out by the residents' patio area, which is some 50-55m from the car wash site. If monitoring was to be undertaken at the bottom of the resident's garden, closer to the site, then the measured levels would be greater. In addition, if the monitoring was undertaken on a Sunday, when prevailing noise levels are likely to be lower, it is reasonable to expect that the measured noise impact would be greater. It should further be noted, that noise from the jet washing is clearly audible in Ashbury Drive itself, despite the screening afforded by the dwellings on Ashbury Drive.

Noise has also affected the living environment in flats in Clayton Court, which are now obliged to keep their windows shut. Sound measurements taken in these properties by Environmental Health Officers have led Environmental Health to raise an objection to the proposal on the grounds that the application is not supported by a Noise Impact Assessment and there appears to be little consideration of the potential noise impact the site's activities could pose to nearby residential amenity. Whilst the submitted Design and Access Statement does acknowledge noise by making reference to all machinery for the car washing business being housed inside the existing building and by stating that new screens will be erected at the rear of the site, there is little detail accompanying these statements to demonstrate how effectively noise will be reduced. The nature of the operation necessitates both ends of the existing building remaining open so noise will break out. Clayton House may be afforded some protection from machinery noise but properties on Ashbury Drive may not. The noisiest element of the business, the noise from water under pressure hitting bodywork, will still remain outside in the washing bay where jet washing of vehicles will take place. With regards the proposed screens, the plans are unclear as to where these will be located or what height they may be, and there appears to be no intention to erect any screening along the rear boundary. From a site inspection, the screens erected so far alongside the washing area appear to be ordinary close boarded fences. There is no information as to the construction of these 'screens' so it is unclear if the applicants intend to erect acoustic barriers to reduce noise levels or fencing simply to hide the noise making activities. If the screens do have any ability to deflect noise, they would not protect the amenity of properties in Ashbury Drive.

Given the absence of a noise impact assessment, and the lack of detail with regards how noise will be controlled to minimise disturbance to local residents, Environmental Health have raised an objection to this application. The only measures that might give protection to the amenity of these properties would be the erection of a substantial acoustic barrier along the rear boundary and returning partway along the side boundary. This would need to be significantly higher than the existing boundary fencing and may itself have an adverse impact upon residential outlook and amenity. There appears to be no practical way of protecting the flats on the upper floors of Clayton House from noise.

While the authorised use of the premises for tyre fitting, MOT centre and vehicle repairs are uses which have the potential to cause some disturbance to residents through noise and vibrations, it is considered that such instances would be relatively rare due to the small scale of the premises and much less frequent than in the case of the car wash, where in busy times, there would be a continuous throughput of vehicles. For this reason, car washes are treated as being "sui generis" uses as they are entirely different from any of the uses contained in the B Classes of the Town and Country Planning (Use Classes) Order 1987 in terms of their operation and impacts. It is also considered that the use will not fall within the new Class E, which is being introduced to the Use Classes Order, with effect from 1st September 2020.

Policy DE1 requires new development 'to make a positive contribution towards improving the quality of the built environment'. Amongst other things, it states that development should 'not cause harm to the proposed, existing and/or adjacent users by reason of (1) loss of light, privacy or outlook; and (2) noise, light pollution, vibration, smell or air pollution'. It also requires applicants to demonstrate that the wider context of the site has been taken into account and incorporated within proposals.

Policy DE10 (Pollution) is also relevant. It states that development will be permitted provided that 'it does not give rise to, or would be subject to, unacceptable levels of pollution' and it can be demonstrated satisfactorily that any adverse impacts of pollution 'will be adequately mitigated or otherwise minimised to an acceptable level'. The Local Plan defines pollution as

anything that 'affects the quality of land, air, water or soils which might lead to an adverse impact on human health, quality of life, the natural environment or general amenity', and includes, amongst other things, noise, vibration, air quality (including spray), dust, fumes, odours, and degradation of soil and water resources. Policy DE10 further states that where development is proposed on or near a site that may be impacted by or give rise to pollution, a proposal should be 'supported by a report that investigates the risks associated with the site and the possible impacts on the development, its future users and the natural and built environment'. The report should 'propose adequate mitigation or remediation' to achieve a safe and acceptable development.

As noted within the Local Plan supporting text to Policy DE10, 'proposals for development that would curtail the existing legitimate use of a site by exposing sensitive receptors to a detrimental level of pollution which was previously otherwise considered acceptable should be avoided', and permission should be refused 'where risks cannot be reduced to an acceptable level' (para. 9.79). Noise from commercial and industrial activities 'has the potential to affect health and quality of life significantly and adversely if not properly controlled or planned for. The adverse effects of excessive exposure to noise and vibration are well documented and rightly recognised as a material planning consideration. Noise is a key aspect of quality of life and social well-being, and therefore, by extension, sustainable development' (para. 9.80). The government's long-term vision for noise policy is set out within the Noise Policy Statement for England (2010), which aims to promote good health and a good quality of life through the management of noise within the context of government policy on sustainable development. The National Planning Policy Framework (NPPF) states that planning policies and decisions should 'mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life' (para. 180). As noted within the Local Plan, development proposals 'need to consider the noise environment in which development is located, or any locations beyond the boundary of the site that they may affect, and demonstrate how the impacts of the development comply with the Council's requirements' (para. 9.83). New development must also 'demonstrate how any adverse impacts of noise arising from the development or affecting noise sensitive development will be mitigated or otherwise minimised' (para. 9.84).

In the light of the known adverse impact upon residential amenity resulting from noise pollution, the lack of a noise impact report or details of mitigation, and the lack of any plausible method of protecting residents from noise which would not result in other harm, it is concluded that the operation of a mixed use including a hand car wash is incompatible with the adjoining residential properties as it would be detrimental to residential amenity through noise and contrary to Policies DE1, DE10 and Para. 180 of the NPPF.

Impact upon Highway Safety-

The site is located on a classified road which receives a considerable amount of traffic. However, the road is quite wide at this point and there is a range of parking bays on the north-eastern side of the road, running from a point just north of the roundabout at the junction with Chapel Lane, running as far as Draycott in the north, which provides opportunity for a considerable amount of safe on-street parking. Therefore, while residents have raised concerns about impact upon highway safety and the inadequate provision of car parking within the site, there have been no reported instances of overspill parking onto the highway in a dangerous manner. Hampshire County Council as Highways Authority have raised no objection to the proposal on highway safety grounds, The Council's Car and Cycle Parking Standards SPD does not contain a specific standard for car washes. However, the one-way system allows for customers vehicles awaiting service to be parked within the site. One

resident of Clayton House has commented that vehicles attempting to enter the workshop have used the dropped kerb of Clayton House, thus risking collision with vehicles emerging from the latter's parking area. It is considered that the provision of the widened dropped kerb at the front would satisfactorily address this point. Overall, it is considered that the continued operation of the mixed use as proposed would not have a severe impact upon highway safety, and the proposal is satisfactory when assessed in the criteria set out in Policy IN2 of the Rushmoor Local Plan.

Disposal of Waste Water-

The operation of the car wash generates a flow of waste water that must be effectively removed from the site, without contaminating ground water or local watercourses. In the present case it is proposed to dispose of water by a public foul sewer located towards the rear of the site. The car wash area is located to the rear of the car wash building and the ground slopes down to the rear where a grille collects and directs the flow to the sewer, where fuel/oil interceptors are provided. Only one vehicle can be washed at a time. The operation of washing cars has been viewed by the Case Officer and it appears that the arrangements are effective in directing the water into the sewer. The observed flow rate did not appear to be particularly great and there was no indication that the sewer was unable to cope with this additional discharge. Nevertheless, many of the objectors have raised concerns about the ability of the sewer to accommodate the additional flow, and fear that a continuation of the use will result in a repeat of previous instances where gardens through which the sewer flows have been flooded with sewage.

The Council has little information on the status and condition of the sewer but correspondence with Thames Water on Environmental Health's files indicated that a previous instance where the sewer burst was due to a blockage caused by a build-up of inappropriately flushed household waste. The sewer is owned by Thames Water and it is for them to determine whether the sewer is suitable to accommodate flows from the car wash. Thames Water were consulted on the application and they have raised no objection to the proposal, commenting that "Thames Water would advise that with regard to waste water network and sewage treatment works infrastructure capacity, we would not have any objection to the above planning application, based on the information provided".

They also commented that a Trade Effluent Consent will be required for any Effluent discharge resulting from vehicle washing and that any discharge without this consent is illegal and may result in prosecution. It is not known whether the applicant has applied for or obtained an appropriate Consent in the meantime, but as of 27 July 2020, Thames Water's Customer Services department confirmed that the company did not have a current consent. The Case Officer reported the matter to Thames Water's Effluent Team for further investigation. Thames Water have statutory powers to address inadequacy in the sewer to accommodate waste water. This falls outside the remit of planning legislation which cannot seek to duplicate the control provided by other legislation.

Objectors have also raised concerns that effluent from the car wash may contain chemicals that may damage the environment and find its way into local water courses. Impermeable surfaces are used throughout the site and there would be little possibility that wastewater will contaminate ground water. Waste water would be directed into a foul sewer, which is designed so that it will not discharge into water courses. Thames Water will consider whether it will be appropriate to discharge this type of effluent into their sewer, but it is understood that they have permitted car washes to discharge effluent for car washes into the sewer network elsewhere in the Borough.

It is considered that there is insufficient evidence to refuse planning permission on the grounds that waste water cannot be effectively disposed of and that there is no conflict with Policy ENV10 in this respect.

Other Matters –

Objectors have commented that staff at the car wash are forced to wait at the front of the building while awaiting customers and that this is off-putting to residents entering and leaving their properties. Harm to residential amenity needs to be established, and it is not considered that the impact upon resident's amenity would result in material planning harm.

Objectors have raised concern that the business is of a type that could lend itself to instances of modern slavery or other nefarious matters. The likelihood or otherwise that a premises might be used for criminal activity is not a material planning consideration.

Objectors have also opposed the application on the grounds that the business does not accord with the Rushmoor Council Business Plan April 2019 to March 2022, which encourages high level, sustainable businesses that provide employment for local people. It is acknowledged that the proposal will not meet these objectives. However, the Business Plan does not form part of the adopted Development Plan for the area and there are no policies in the Rushmoor Local Plan which identify hand car washes as being unsuitable uses for this Borough.

Some objectors have argued that the application should be refused on the grounds that the business was commenced before planning permission was obtained. However, Central Government advice is clear that retrospective planning applications should be determined on their planning merits regardless of whether they are retrospective.

Some objectors have questioned whether a car wash is required in this location, as there is another car wash nearby in Chapel Lane. However, this is a business decision made by the applicant and Central Government advice is that Local Planning Authorities should not interfere with such decisions, since market conditions will determine whether there is sufficient demand to support the proposed business.

Conclusion –

It is therefore concluded that while the continuation of the mixed use proposed in this application would not harm the general amenity of the area or highway safety, and it appears that adequate means for disposing of waste water are in place, it is considered that it has a significant and adverse effect on residential amenity as a result of noise emitted by the jet wash and other machinery. As a result of the layout of the site and its relation to the adjoining residential properties, it is considered unlikely that any measures to effectively protect residents from noise could be provided. It is therefore recommended that planning permission be refused on the grounds that the use has a significant and adverse impact upon residential amenity through noise, which is substantially greater than noise arising from the authorised use of the premises, contrary to Policies DE1 and DE10 of the Rushmoor Local Plan. It is also recommended that an Enforcement Notice be served, requiring the use to cease.

FULL RECOMMENDATION

It is recommended that

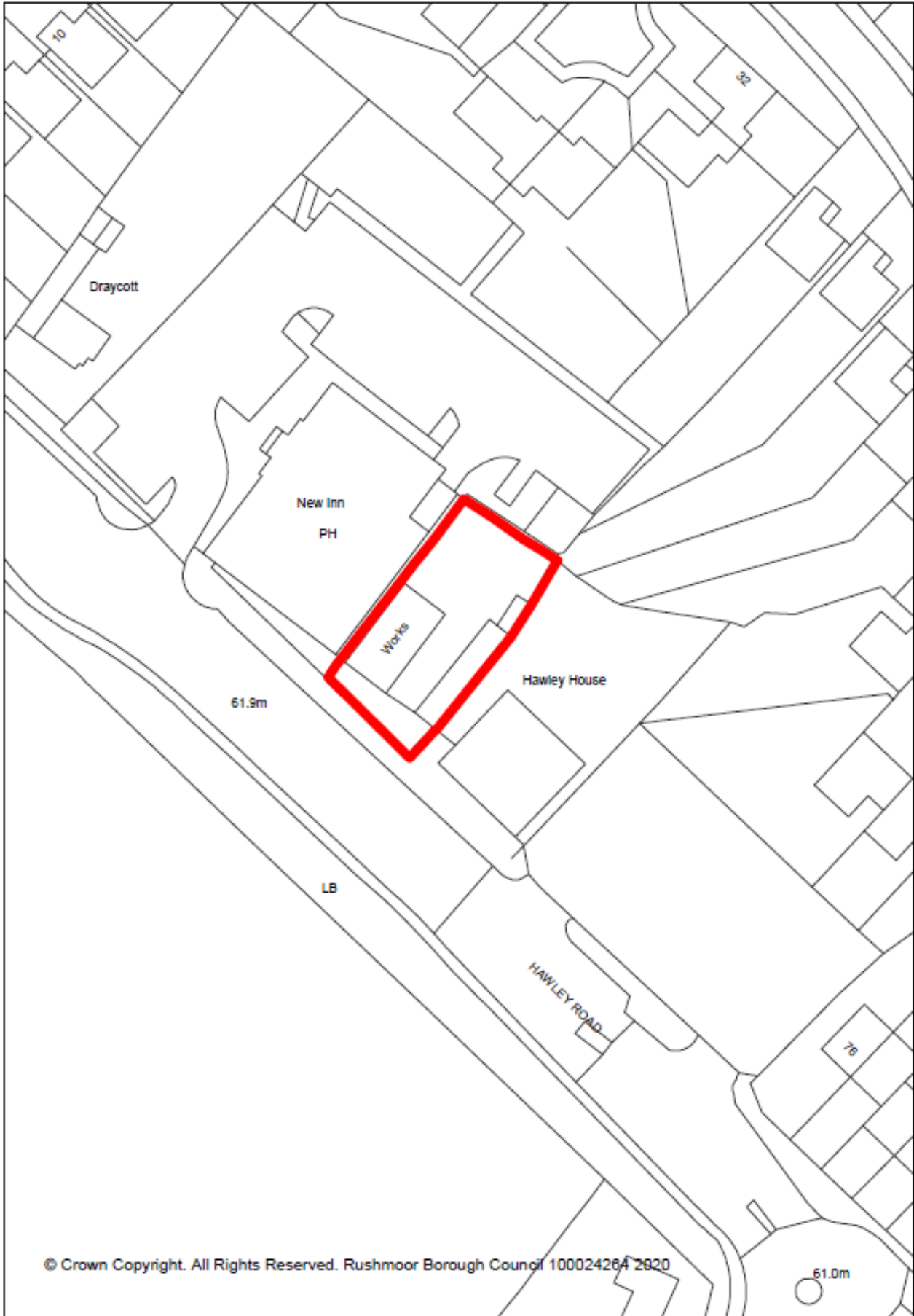
A. Planning permission be **REFUSED** for the following reasons:

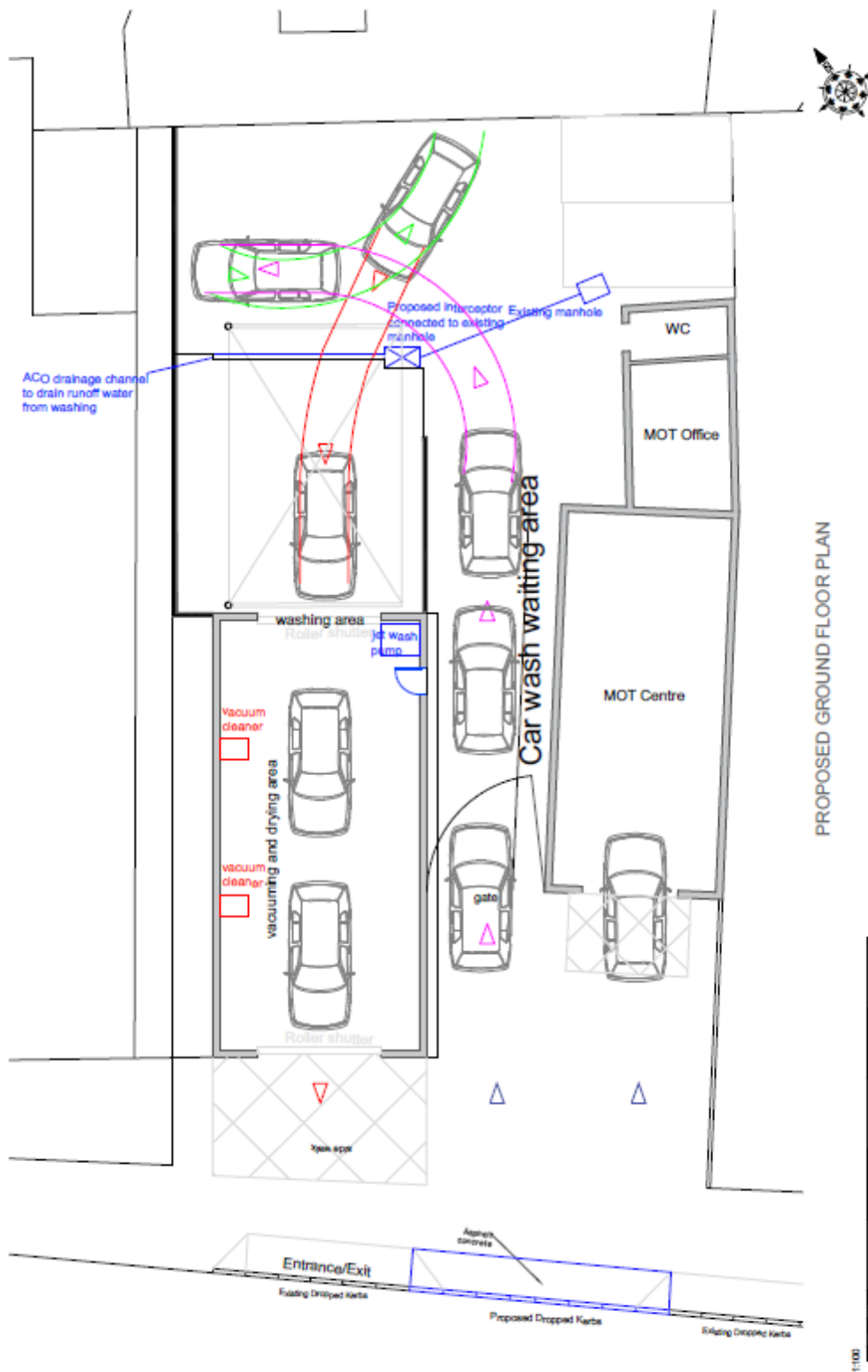
B. It is recommended that the Solicitor to the Council be authorised to issue an **ENFORCEMENT NOTICE** with regard to the unauthorised use of the premises as a mixed use comprising a hand car wash and a MOT Testing Station and vehicle repairs at The Old Bakery, Hawley Road, Blackwater, Camberley, GU17 9ES, for the reason that the unauthorised change of use has exposed the occupants of the adjoining residential to excessive noise, to the detriment of their residential amenity and is thereby contrary to Policies DE1 and DE10 of the Rushmoor Local Plan (2014-2032) with One month for compliance.

- 1 The continued use of the premises for mixed use incorporating a hand car wash would result in a significant and adverse impact upon residential amenity through noise, which is substantially greater than noise arising from the authorised use of the premises, and for which there appears to be no practical means of mitigation. The use is considered to be incompatible with the adjoining residential properties and the proposal is contrary to Policies DE1 and DE10 of the Rushmoor Local Plan and the National Planning Policy Framework.

Informatives

- 1 **INFORMATIVE** – The Local Planning Authority's commitment to working with the applicants in a positive and proactive way is demonstrated by its offer of pre-application discussion to all, and assistance in the validation and determination of applications through the provision of clear guidance regarding necessary supporting information or amendments both before and after submission, in line with the National Planning Policy Framework.



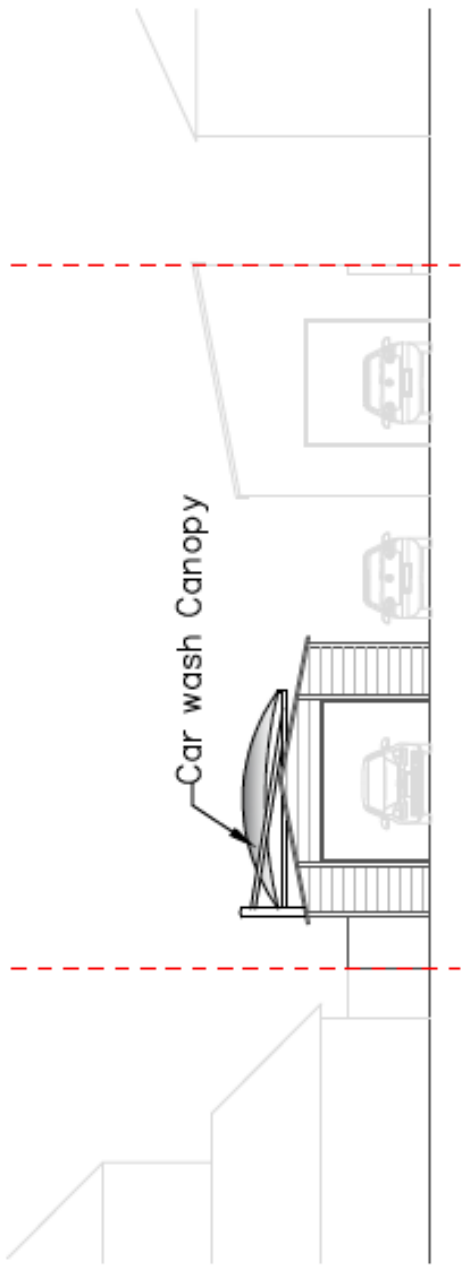


PROPOSED GROUND FLOOR PLAN



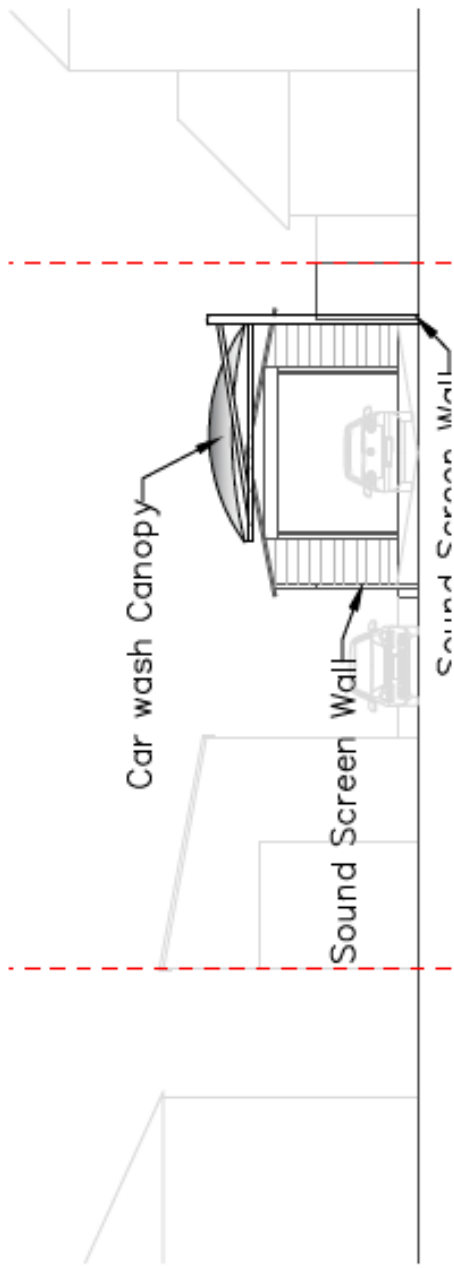
Rev	Revised by	Date	By

CTF Associates <small>Chartered Institution of Building Services Engineers</small>		Project: The Old Bakery, Hawley Road, Blackwater, Camberley, Hampshire GU17 9ES
Scale: A3 @ 1:100	Date: 15-06-2020	Drawn by: S.K
Job number: 1739	Drawing number: 5	Revision:
ALL DIMENSIONS TO BE CHECKED ON SITE ONLY TO BE USED FOR PLANNING AND REGULATIONS		Client: First Zebra



Car wash Canopy

PROPOSED FRONT ELEVATION



Car wash Canopy

Sound Screen Wall

Sound Screen Wall

PROPOSED REAR ELEVATION

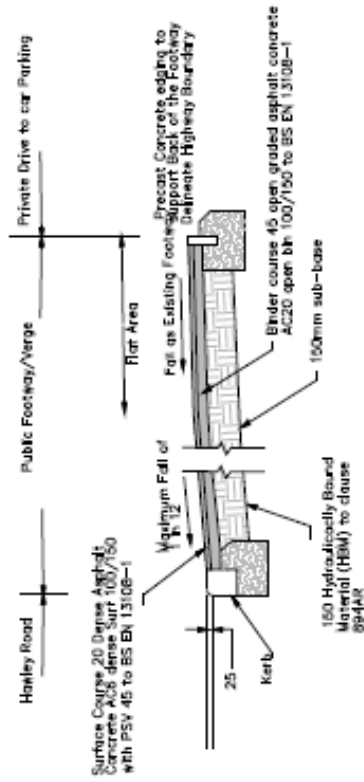
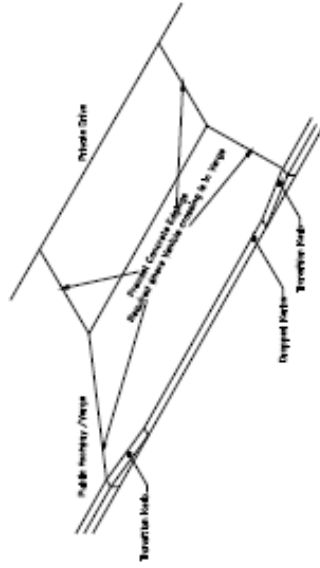
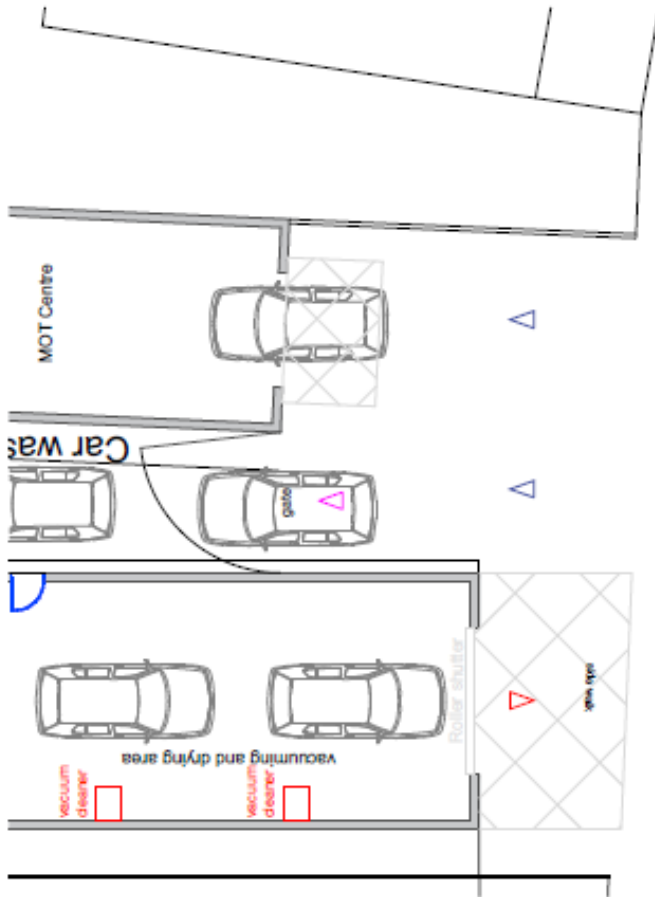


Rev.	Revision	Date	By

CTF Associates
 Planning & Architecture
 ALL DIMENSIONS TO BE CHECKED ON SITE
 ONLY TO BE SCALED FOR PLANNING AND BUILDING REGULATIONS
 Client: Fiaz Zaman

Project	The Old Bakery, Hawley Road, Blackwater, Camberley, Hampshire GU17 9ES
Scale	A3 @ 1:100
Date	15-06-2020
Job number	1739
Drawn by	S.K
Revision	6

- PRECAST CONCRETE EDGINGS SHALL BE 150x450 TYPE EF TO BS EN 1340 REQUIRED AS EDGE RESTRAINT TO BACK OF FOOTWAY AND ADJOINING VERGE.
- WEATHERING RESISTANCE: CLASS 3
- BENDING STRENGTH: CLASS 2
- ABRASION RESISTANCE: CLASS 3.
- SLP / 3RD RESISTANCE: MIN P.P.T.V. 45.
- SUBBASE SHALL BE ONE OF THE MATERIALS COMPLYING WITH CLAUSE 903 OR CLAUSE 891AF, 892AF, 893AF OR 894AF OR
- THE GRADIENT OF THE DROPPED CROSSING SHALL BE 1 IN 12 MAXIMUM, BUT THE OVERSEING ORGANIZATION WILL DETERMINE THE PRECISE LOCATION AND GRADIENT ON SITE PRIOR TO CONSTRUCTION AND THE EXTENT OF ANY FLAT SHALL BE NOTED IN THE SPECIFIC CONDITIONS PRESENT THAT A MINIMUM OF 3 DROPPED EDGINGS SHALL BE USED WITH THE AGREEMENT OF THE OVERSEING ORGANIZATION.
- ANY EXCAVATION AND RESTRAINT IN FRONT OF THE NEW KERB SHALL BE DETERMINED BY THE OVERSEING ORGANIZATION.
- TREATMENT OF LAYERS AND VERTICAL JOINTS SHALL BE IN ACCORDANCE WITH CL 903.4.



PROPOSED DROPPED KERBS



Ref.	Revisions	Date	By

CTF Associates
 Design & Construction
 ALL DIMENSIONS TO BE CHECKED ON SITE
 ONLY TO BE USED FOR PLANNING AND BUILDING REGULATIONS
 Client: Fiaz Zaman

Project	The Old Bakery, Hawley Road, Blackwater, Camberley, Hampshire GU17 9ES
Scale	A3 @ 1:100
Date	15-06-2020
Drawn By	S.K
Job number	1739
Drawing number	8
Revision	