

REPORT SUMMARY

REFERENCE NO - 17/505703/FULL			
APPLICATION PROPOSAL			
Two year change of use to allow the siting of a mobile burger van on car wash/car sales forecourt. (Resubmission of 17/503283/FULL)			
ADDRESS Harrison Car Sales Station Approach Headcorn Ashford Kent TN27 9SD			
RECOMMENDATION – GRANT PERMISSION Subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
The temporary change of use for the siting of a mobile burger van is considered to be acceptable.			
REASON FOR REFERRAL TO COMMITTEE			
Headcorn Parish Council wish to see the application refused and reported to Planning Committee			
WARD Headcorn	PARISH/TOWN Headcorn	COUNCIL	APPLICANT Mr Jetnor Xhemaj AGENT Mr C Smith
DECISION DUE DATE 28/12/17	PUBLICITY EXPIRY DATE 01/12/17	OFFICER SITE VISIT DATE 09/11/2017	
RELEVANT PLANNING HISTORY (inc. appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
12/2220	Temporary change of use of site for 5yrs for car wash and valeting site including widening of vehicle access points, laying of hardstanding, erection of 2m high screens and associated works	Permitted	04/02/2013
13/2009	Temporary car port for valeting at car wash	Permitted	13/01/2014
16/505266/FULL	Retrospective application for change of use for car wash and valeting and retain permanent use for car sales jointly on site	Permitted	15/12/2016
17/503283/FULL	Change of use to allow the siting of a mobile burger van on car wash/car sales forecourt.	Refused	19/10/2017

1.0 BACKGROUND INFORMATION

- 1.01 The application is the resubmission of a previously refused application (reference: 17/503283/FULL) for the change of use to allow the temporary siting of a mobile burger van on the carwash/car sales forecourt for a period of 2 years. The Committee Report for the previous application is attached under Appendix 1 of this report.
- 1.02 This application is identical in terms of location and scale to the previously refused application, however, details of the refuse area are now shown on the submitted block plan (Drawing Number: 72/791C) to be located on the south east corner of the site.
- 1.03 The Committee Meeting minutes for the 05/10/17 outlines the following two reasons for refusal:

“Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission by five votes to four with three abstentions. In making this decision, Members felt that the proposed development would cause adverse impacts on highway and pedestrian safety and cause harm to the residential amenities of the surrounding area.

RESOLVED: *That permission be refused for the following reasons:*

1. The proposed development will cause adverse impacts on highway safety by virtue of potential vehicle parking along Station Approach and will result in obstructions and impacts which would compromise pedestrian safety contrary to Policy DM1(ix) of the emerging Maidstone Local Plan.

2. The proposed development by virtue of its use would cause harm to the residential amenities of the surrounding area by virtue of noise, odour and disturbance as a result of comings and goings and vehicle movements which would be contrary to Policy DM1(iv) of the emerging Maidstone Local Plan and Paragraph 17 of the National Planning Policy Framework.”

- 1.04 The Planning Committee further resolved that the following informative be attached to the decision:

“If the applicant were minded to resubmit the application, then Members may consider a shorter temporary planning permission more appropriate in the circumstances to monitor the impacts arising from the development.

Voting: 11 – For 0 – Against 1 – Abstention”

2.0 LOCAL REPRESENTATIONS

- 2.01 One neighbour objection on the following summarised grounds:

- Previous application was refused by the Council on the basis of highway safety and impact on local residents and the consideration for two years warrants no different considerations;
- A range of objections were raised with the previous application and asks that these are taking into consideration with this application.

3.0 CONSULTATIONS

- 3.01 Headcorn Parish Council wish to see the application refused and referral to planning committee is required for the following summarised reasons:

- Views of the Parish remain unchanged from the previous application;
- No changes have been made to address the previous grounds for refusal and the amenity of the neighbouring properties will still be affected;
- It was felt that the applicant had been given inappropriate advice by the planning officer who had suggested applying for a shorter license period - this clearly changes nothing.

- 3.02 KCC Highways (Summarised) – No objection, subject to conditions.

“The NPPF guidelines of March 2012 state in paragraph 32 that ‘Development should only be prevented or refused on transport grounds

where the residual cumulative impacts of development are severe'. Whilst it is recognised there is a limited level of parking available within the curtilage of the development there is no tangible evidence to indicate that it would be detrimental to road safety and therefore this authority would have no grounds for a sustainable objection. The anticipated amount of traffic that will be generated as a result of the development is not considered to be severe and I therefore write on behalf of the highway authority that I have no objection to this application."

3.03 Environmental Health (Summarised) – No objection, subject to a condition.

3.04 Tunbridge Wells Borough Council – Raises no objection.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):
National Planning Practice Guidance (NPPG)
Maidstone Local Plan (2017): DM1

It is highlighted that that since the committee determination of the earlier planning application the Local Plan was adopted on the 25 October 2017.

5.0 CONCLUSION

5.01 For the reasons outlined in this report and the previous report in Appendix 1, this proposal would not harm the amenities of existing residents, would not harm the vitality or the viability of Headcorn High Street or cause safety issues on the highway. The proposal is acceptable with regards to the relevant provisions of the Development Plan, the National Planning Policy Framework, and all other material considerations. I recommend temporary conditional approval of the application on this basis.

6.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions 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) The use hereby permitted shall only be open to customers within the following times: Mondays to Fridays, 08:00-18:00, Saturdays 08:00-18:00 and Sundays and Bank Holidays 09:00-16:00hrs.

Reason: To safeguard the amenity of local residents

(3) The use hereby permitted shall be discontinued and the land shall revert to its former use and condition on or before 28/12/2019;

Reason: To enable the Local Planning Authority to regulate, monitor and control of the site/building.

(4) The development hereby permitted shall be carried out in accordance with the following approved plans: 71/791A and 72/791C

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

- (5) Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

Reason: In the interests of highway safety.

- (6) Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

Reason: In the interests of highway safety.

Informatives

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- (2) Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- (3) The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Case Officer: Adam Reynolds

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

APPENDIX 1 – Planning Committee report for application reference: 17/503283/FULL

REPORT SUMMARY

28 September 2017

REFERENCE NO - 17/503283/FULL			
APPLICATION PROPOSAL Change of use to allow the siting of a mobile burger van on car wash/car sales forecourt.			
ADDRESS Harrison Car Sales Station Approach Headcorn Ashford Kent TN27 9SD			
RECOMMENDATION – Grant subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The application is considered to be acceptable subject to the condition that the opening hours are restricted to match those of the car wash and that the use is discontinued on or before 31/09/2019			
REASON FOR REFERRAL TO COMMITTEE It is contrary to views expressed by Headcorn Parish Council			
WARD Headcorn	PARISH COUNCIL Headcorn	APPLICANT Mr Jetnor Xhemaj AGENT Mr C Smith	
DECISION DUE DATE 17/08/17	PUBLICITY EXPIRY DATE 21/07/17	OFFICER SITE VISIT DATE 07/11/17	
RELEVANT PLANNING HISTORY (including adjoining sites):			
App No	Proposal	Decision	Date
12/2220	Temporary change of use of site for 5yrs for car wash and valeting site including widening of vehicle access points, laying of hardstanding, erection of 2m high screens and associated works	Permitted	04/02/2013
13/2009	Temporary car port for valeting at car wash	Permitted	13/01/2014
16/505266/FULL	Retrospective application for change of use for car wash and valeting and retain permanent use for car sales jointly on site	Permitted	15/12/2016

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a rectangular area of land measuring approximately 548.70m². The site is located on the junction of Station Approach (Headcorn Railway Station) and Station Road, with the longest site boundary to Station Approach. To the east of the site lies a telephone exchange, with the railway station car park and fire station to the west on the opposite side of the site/Station Approach. A petrol station lies directly north of the site on the opposite side of Station Road. To the south lies a

children's nursery which is in a building constructed from pre-fabricated materials. Planning permission has been granted for the demolition of the existing nursery building and erection of 9 terraced houses (Reference14/0721).

- 1.02 The site was originally granted temporary planning permission as a car wash for a period of 5 years under reference: 12/2220. The joint use of the site for car sales and car valeting was made permanent under reference: 16/505266/FULL. A temporary car port was granted planning permission under planning reference: M1/13/2009 and has been erected on the site. A small brick timber clad building is present on site and is used for office use for the businesses.
- 1.03 The site has a separate access and exit for vehicles which are both off of Station Approach. Station Approach is not a through road and has double yellow lines either side of the road. Station Road to the north of the site has single yellow lines with parking restricted Monday – Friday 1:00pm – 1:30pm. The site currently has parking for 13 vehicles.
- 1.04 The site is within the defined village envelope of Headcorn and the Low Weald Special Landscape Area as defined by the Maidstone Borough Wide Local Plan 2000. Within the Final Draft Maidstone Local Plan the site is located within a Landscape of Local Value.
- 1.05 The nearest residential property is opposite the site and is located at No.43 Station Road, which is located 20m to the north of the site.

2.0 PROPOSAL

- 2.01 The proposal is for the change of use of a small part of the car wash/car sales measuring 10m² to A5 use for use as a hot foot takeaway to serve customers of the car wash. The proposed site is adjacent to the eastern boundary and the existing car wash canopy and office. The proposed site would be set back from Station Road by 15m and would be 8m into the site from the site boundary to the east from Station Approach.
- 2.02 The proposal would result in the loss of 1 parking space but the site would continue to benefit from 12 on-site parking spaces plus the car wash/valeting forecourt. The proposal will employ 1 additional full time member of staff.
- 2.03 The proposed opening hours are the same as the car wash/car sales which are as follows:
 - Monday – Fridays: 08:00 hrs – 18:00 hrs
 - Saturdays: 08:00 hrs – 18:00 hrs
 - Sundays and bank holidays 09:00 hrs – 16:00 hrs

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):
National Planning Practice Guidance (NPPG)
Development Plan: ENV 34, R17
Final Draft Maidstone Local Plan: DM1

- 3.01 Maidstone Borough Local Plan (2016) was submitted to the Secretary of State for examination on 20th May 2016. The Local Plan Inspector issued his Report on the Examination of the Maidstone Borough Local Plan on 27th July 2017. The Report is accompanied by an appendix containing the Main Modifications. The Inspector concludes that, with the incorporation of the Main Modifications, the submission

Maidstone Borough Local Plan is sound. The adoption of the Local Plan will be considered at the next meeting of the Council on 27th September 2017.

- 3.02 In these circumstances, it is considered that approaching full weight should be afforded to the Maidstone Borough Local Plan incorporating the Main Modifications in the determination of planning applications.

4.0 LOCAL REPRESENTATIONS

- 4.01 The planning application has been advertised with individual letters sent to adjoining properties and a site notice has been displayed.

- 4.02 Local residents: Three representations received from local residents objecting to the proposal on the following grounds (summarised)

- Odour produced by the burger van
- Increased traffic and parking of vehicles on the highway
- Visual appearance of the proposal being out of character with the village
- Litter created by the proposal

5.0 CONSULTATIONS

- 5.01 **Headcorn Parish Council:** Wish to see the application refused and referral to the planning committee is required for the following summarised points:

- There had been a burger van at this location in the past - without the appropriate permissions – and there were problems that had arisen at that time were innumerable.
- Unenforceable that the facility will only be used by the car wash and valeting customers and the use will lead to additional vehicles at the site where there is no facility for parking and the approach to the station and the A274 will be obstructed by these additional facilities.
- If the Officer/Committee is minded to approve this application then the Parish Council would wish to see the condition proposed by Midkent Environment Health.

- 5.02 **KCC Highways:** Raise no objection, but suggest a condition that permission should be temporary so that the proposal can be monitored.

- 5.03 **Midkent Environmental Health:** No objection subject to condition stating that the facility shall be used for the customers of the valeting business only, shall operate only during the opening hours of the wider use and the use being temporary so that its impact can be observed.

6.0 APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Principle of development;
- Vitality and viability of Headcorn Village; and
- Visual impact;

Principle of Development

- 6.02 There is a presumption in favour of sustainable development within the National Planning Policy Framework (NPPF), and the proposal is in a sustainable location within the village boundary of Headcorn village. The final draft of the Maidstone Local

Plan is approaching full weight and designates Headcorn village as a Rural Service Centre

Vitality and viability of Headcorn Village

6.03 Policy R17 of the Development Plan outlines that the Council will permit hot food shops, restaurants, cafes, bars and public houses outside of the core shopping area to which Policy R7 applies, provided that the following criteria are met:

- (1) That there is no detrimental effect, by reason of hours of opening, fumes and smells or noise and disturbance, to nearby or adjoining uses and especially residential amenity; and
- (2) That the effect of one or a concentration of such uses would not be detrimental to the vitality and viability of any district or local centres within which they may be located

6.04 In terms of the potential impact on the vitality and viability of Headcorn village Local Centre. The proposal could provide some competition with existing shops/cafes within the local village or the petrol station opposite the site. However, this is only a small number of businesses. Whilst the proposal would provide some competition, it is considered that it is not of such a scale that would cause significant harm to local shops or the overall vitality and viability of the retail centre. For these reasons, I do not consider an objection in terms of harm to this Local Centre could be sustained and I am satisfied that this proposal is not contrary to Policy R17(2).

Visual Impact

6.05 The mobile burger van will be parked on the eastern side of the site set back from Station Road by 15m and set 8m to the east of Station Approach. The burger van will remain on site at all times and would be visible within the site. With the existing use of the site with a car port and also taking account of the adjacent uses, I do not consider that the proposal would have an adverse visual impact upon the area or upon the character of the special landscape area nor the Landscape of Local Value

Residential Amenity

6.06 Policy DM1 of the Emerging Local Plan relates to the scale, design and impact on the character and appearance of the area. The policy states that new development will be permitted where it respects the amenities of occupiers and be ensuring that the development does not result in excessive, noise, vibration, odour, air pollution, activity or vehicular movements to nearby properties.

6.06 The first part of saved Policy R17 of the Development Plan outlines that the Council will permit hot food shops, restaurants, cafes, bars and public houses outside of the core shopping area to which Policy R7 applies, provided that the criteria listed in paragraph 6.03 above are met.

6.07 A number of residents have raised concerns about the impact of cooking smells. Mid Kent Environmental Health has assessed the application and is satisfied that the proposed use if ancillary to the hand car wash would have a negligible impact on residential amenity. Given the distance from the proposal site to the nearest neighbouring properties and that the immediate adjacent uses to the site consist of a telephone exchange, car park and petrol station to the north of station road, I am satisfied that the proposal would not result in an undue impact upon the amenity of the occupiers of residential properties.

- 6.08 The Parish Council has requested that should permission be granted that a condition is attached as suggested by Environmental Health that the facility should be used for the customers of the valeting business only and shall operate only due the opening hours of the wider use. Whilst the applicant has also outlined that the burger van is for the use solely of the car valeting customers, Paragraph 206 of the NPPF requires planning conditions to only be imposed where they are enforceable. A condition requiring the burger van to only be used by car valeting customers only would not be enforceable. However, it is recommended that a condition be attached to ensure that the proposed use mirrors the car wash in terms of opening and closing times so that the amenity of local residents is preserved and this approach is supported by Mid Kent Environmental Health.

Highways

- 6.09 The Highways Officer is of the view that the proposal should only be open for the same hours as the car wash and has suggested that the approval should be given for an initial period only so that the use can be observed in terms of highway impact. Subject to the above conditions the use is considered acceptable by the Highways Officer. I am satisfied that this proposal would not result in an adverse highway safety issue.

Other Matters

- 6.10 A number of consultees have commented on the previous breach of planning control with the stationing of a catering unit. In April 2013 the Council investigated a complaint and found a breach of planning control with the stationing of a catering van, this breach was not considered so serious that enforcement action was necessary and the owner was told to submit an application for change of use or to stop trading. No application was forthcoming and the owner ceased trading from the site.
- 6.11 Issues have been raised from local residents in regards to waste disposal from users of the burger van. Whilst no details have been provided in regards to refuse, I do not consider an objection on this ground could be sustained and details of refuse can be provided by condition.

7.0 CONCLUSION

- 7.01 For the reasons outlined, this proposal would not harm the amenities of existing residents, would not harm the vitality, the viability of Headcorn High Street or cause safety issues on the highway. The proposal is acceptable with regards to the relevant provisions of the Development Plan, the National Planning Policy Framework, and all other material considerations. I recommend conditional approval of the application on this basis.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (4) The use hereby permitted shall only be open to customers within the following times: Mondays to Fridays, 08:00-18:00, Saturdays 08:00-18:00 and Sundays and Bank Holidays 09:00-16:00hrs.

Reason: To safeguard the amenity of local residents

- (5) The use hereby permitted shall be discontinued and the land shall revert to its former use and condition on or before 31/09/2019;

Reason: To enable the Local Planning Authority to regulate, monitor and control of the site/building.

- (4) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan No. 72/791 and 71/79/A

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

- (5) The development hereby approved shall not commence until, details of satisfactory facilities for the storage of refuse on the site and measures to prevent littering locally have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided from the start of the approved use and maintained as such thereafter

Reason: No such details have been submitted and this information is required prior to commencement as the first operation of the use has the potential to cause issues in relation to refuse.

INFORMATIVE

- (1) The applicant is advised that the catering facility must be registered as a food business with the Food and Safety Team at the council.
<http://www.maidstone.gov.uk/business/environmentalhealth/food>

Case Officer: Adam Reynolds

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.