

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

26 FEBRUARY 2014

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

13/2834/COU

Unit C, Appleyard Buildings, Master Road

Retrospective application for change of use to hand car wash (sui generis)

Expiry Date 6 January 2014

SUMMARY

This application seeks retrospective planning permission for a change of use from to a hand car wash (Sui Generis Use Class) at unit C, Appleyard Buildings, Master Road Thornaby. The site consists of a valet/storage area (within the unit) and a car wash area (adjacent to the building) in the yard area. The operation includes use of power operated jet washers and a generator.

The application site (unit C) forms one of several uses within a large industrial/commercial unit which is considered to benefit from a B2 general industry use . The current site is served by the access from Master Road (south west) with an area of hard standing to the east/rear of the buildings. This area abounds several residential properties to the east including those along Darbyshire Close and Martinet Road.

The Head of Technical Services has raised no objections to the scheme on highway safety grounds. The Environmental Health Unit Manager has raised no objections in principle to the scheme but has recommended conditions relating a scheme for management controls of the car wash operation (in relation to spray, noise and drainage), hours of operation, restrictions on the playing of music and no external lighting, and the requirement for a 2m high screen to be erected adjacent to the jet washing area. These conditions are recommended accordingly.

7 letters of objection have been received from neighbouring properties, which relate to the use resulting in an unacceptable loss of amenity in terms of noise disturbance and spray nuisance, property devaluation and an impact on highway and pedestrian safety.

Subject to the imposition of the identified relevant planning conditions which are considered to satisfactorily address the impacts of the use, the scheme is considered to accord with the general principles of the National Planning Policy Framework and accord with the principles of sustainable development. The scheme as proposed is therefore not considered to have an unacceptable adverse impact on the character and appearance of the area or lead to an unacceptable loss of amenity for neighbouring land users. It is considered that the scheme will not have an adverse impact on highway safety.

The application is recommended for approval accordingly.

RECOMMENDATION

That planning application 13/2834/COU be approved subject to the following conditions and informatives below;

01 **The development hereby approved shall be in accordance with the following approved plan(s);**

Plan Reference Number	Date on Plan
SBC0001A	31 January 2014
SBC0003C	31 January 2014
SBC0005	31 January 2014
LETTER 'REF 13/157'	20 January 2014

Reason: To define the consent.

Conditions to be discharged prior to occupation

02. **Scheme for the management controls of the use**

Within two months from the date of the decision notice, a written scheme for management controls of the existing drainage facilities and of any resultant noise and spray of the use hereby approved shall be first submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented within one month of the written agreement from the Local Planning Authority and the use shall be maintained and managed in perpetuity.

Reason: In order to adequately control the impacts of the sites use on the amenity associated with the surrounding residential area in accordance with the requirements of Core Strategy Policy CS3.

Conditions to be Implemented

03. **Erection of 2m high spray screen barrier**

Within two months from the date of the decision notice, a two metre (2m) high spray screen barrier shall be erected for a length of 6m to the east of the existing building in accordance with the specified location on plan SBC0003C (dated 3rd February 2014) and constructed in accordance with the submitted specification details (letter 'ref 13/157', dated 20th January 2014).

The agreed scheme shall be maintained in perpetuity.

Reason: In order to adequately control the impacts of the sites use on the amenity associated with the surrounding residential area in accordance with the requirements of Core Strategy Policy CS3.

04. **Working layout**

The hand car wash use hereby approved shall operate solely in accordance with the working layout as set out on plan SBC0003C (dated 3rd February 2014) including the access and egress to/from the site.

The use of jet wash sprays and any other mechanically operated cleaning equipment shall only be operated within the annotated 'car wash area', situated between the rear of the building known as Unit C and the requisite 2m high screen barrier as set out on plan SBC0003C (dated 3rd February 2014).

Reason: In order to adequately control the impacts of the sites use on the amenity associated with the surrounding residential area in accordance with the requirements of Core Strategy Policy CS3.

Conditions which will remain in perpetuity

05. Playing of music and siting of generator inside building only

Any associated generator/plant equipment associated with the hand car wash use shall be housed inside the building only (within the 'valet/storage area' as annotated on plan SBC0003C, dated 3rd February 2014) to limit disturbance to local residential properties.

There shall be no music played in the external yard area or the erection/use of any external lighting in the external yard area.

Reason: In order to adequately control the impacts of the sites use on the amenity associated with the surrounding residential area.

06. Operating Hours

The building and yard area shall not be used for a hand car wash and no machinery associated with the use hereby approved shall be operated within the building or the yard area, nor shall any deliveries be taken outside the hours of 0830 - 1800 hours Monday to Saturday and 0900-1600 hours on Sundays and no working shall take place on Bank Holidays.

Reason: In the interests of residential amenity.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

The Local Planning Authority has implemented the requirements of the National Planning Policy Framework

Informative to applicant; the applicant must ensure that no water escapes from the use onto the adjacent highway.

BACKGROUND

1. Previous planning records for the application site known as Appleyard Buildings;

04/0727/FUL; Installation of internal MOT testing station to existing garage workshop. The proposal constituted permitted development, decision dated 25.03.2004

06/2259/COU; Change of use of part of site (a portakabin to the front of the main building) to taxi booking office, approved 01.09.2006.
2. As part of the Planning Enforcement Section's investigations into the current unauthorised use, the owner of the Appleyard Buildings provided details of the recent uses within the building (which has been sub-divided into a number of uses);

Unit A - storage of classic cars/classic vehicle repairs, occupied since 2011. Previously occupied between 1985-2000 for storing and repairing coaches and then 2000- 2011 as MD travel.

Unit B - current use for classic vehicle repairs. Previously 2000-2011 MD travel used for extra space. Prior to that Mr Appleyard used this for his own company - Big Fridge ltd to store trailers.

Unit C - current unit, prior to unauthorised use, unit was used by a carpet fitter to store carpets.

Unit D - vacant office

Unit E - car repair workshop since 1985

Unit F - Wilson Drummond Kitchens since 2001. Prior to that T-shirt printing business

Unit H - Empty Office

Unit G - Ian Kerr Motors since 2000 prior to that a repairs garage.

3. Notwithstanding this information, it is understood from the Planning Enforcement Section's investigations that the site has a complicated site history but it is believed that the majority of the building operated as a plastics manufacturer (B2/B8 Use). None of the above current occupiers/uses appear to benefit from planning permission and therefore a Certificate of Lawful Use application has been requested to seek to regularise these uses.

SITE AND SURROUNDINGS

4. The application site relates to Unit C, Appleyard Buildings, Master Road, Thornaby. The unit forms one of several uses within a large industrial/commercial unit. The current site is served by an access from Master Road (south west) with an area of hard standing to the east/rear of the buildings. The exit from the site is to the north onto Martinet Road. The application site consists of a building unit that faces onto the rear yard/hard standing area (east).
5. The site yard area abounds several residential properties to the east including No's 2-16 (evens) Darbyshire Close, No's 30 and 32 Darbyshire Close to the south east and 34 Darbyshire Close and Annie House (occupied by 'Vanity Fallen Angel') to the south/south east. No's 1 and 3 Martinet Road are present to the north east of the site, adjacent to the vehicular site exit.

PROPOSAL

6. This application seeks retrospective planning permission for a change of use to a hand car wash (Sui Generis Use Class) at Unit C, Appleyard Buildings. The site consists of a valet/storage internal unit area, a car wash area (adjacent to the building) and a yard area. The submitted information indicates that the use operates 0830-1800 hours Monday-Saturday and 0900-1700 on Sundays. The operation includes a power spray and generator.
7. The applicant has also submitted revised plans detailing a working layout of the site, including the erection of a 2m high x 6m long screen fence to be positioned adjacent to the car wash area (where the jet sprays are used). The screen would consist of transparent Perspex sheets being applied to a steel structure that would be set in concrete/plastic footings, fixed to the ground to make the screen secure. The submitted statement indicates that the structure, whilst free standing, would be secure enough to withhold high winds as a result of the footings and steel structure.
8. The working layout details the entrance to the site from Master Road (east) with vehicles having access to an internal 'valet/storage area' and a car wash area. Both are sited to the

west of an existing drainage channel, which runs from north to south through the site. The plan indicates that once vehicles have been washed they will exit the site onto Martinet Road to the north. The applicant submitted revised plans during the application process relating to an extension of the red line boundary (to include the site exit onto Martinet Road). Residents and consults have been re-consulted for a statutory 21 day period, of which the consultation expires 25th February 2014.

9. Following a site visit it was noted that an approximately 2.6m high timber panelling has been affixed to the existing 2.4m high boundary fence to 32 Darbyshire Close. Although the original submitted plan indicated that a 'Perspex screen' was to be affixed to the boundary fence, as this does not form part of the current planning application description or proposed plans, the matter has been referred to the Planning Enforcement Section to investigate further.

CONSULTATIONS

10. The following Consultees were notified and comments received are set out below:-

Environmental Health Unit

Having visited the site to make a more detailed assessment I do have concerns regarding this application. If not managed properly the scheme does have the potential to affect the amenity of neighbouring residential properties. This results predominately from the use of the lance pressure washer and the associated noise and water spray.

Although I have no objection in principle to the development, I do have some concerns and I would recommend the conditions as detailed below be imposed on the development should it be approved. These should suffice to prevent a statutory nuisance resulting from the development.

- **Noise disturbance from Generator/ Plant**

The generator must be housed inside the building to limit disturbance to local residential properties. Any new plant installed subsequent to the approval shall not increase background levels of noise as agreed without the agreement in writing of the Local Planning Authority.

- **Noise disturbance from access and egress to the premises**

The opening hours should be limited to ensure that adjacent premises are not adversely affected by either customers using the premises or from vehicles servicing the premises at unsocial hours. I would recommend 08.30 – 18.00 Monday to Saturday and 09.00 – 16.00 on Sundays.

- **Jet wash and water spray/ acoustic barrier**

The applicant has submitted a scheme that included the use of a screen 2m high and 6m in length. If managed properly this screen has the potential to substantially limit disturbance to the neighbouring residential properties. This management must include operating the lance pressure washer at appropriate angles so as not to cause spray to either go over the barrier or to directly hit the barrier and cause it to reverberate.

- **External Yard Area**

There shall be no music played in the external yard area, and no use of lighting likely to cause a nuisance to adjacent premises.

- **Site Drainage**

The current site drainage is acceptable, however the management of said drainage will need to be covered in the scheme for management controls of the site as discussed below.

The development will however have the potential to have detrimental effect on the amenity of adjacent residential housing which could only be resolved by one of the following

1. Effective management of the car wash to prevent spray above a 2m height and away from residential properties, avoid noise from direct spraying onto the screening and regular clearing of the existing drainage to prevent accumulation of waste water. I understand it is impractical to condition such measures and it is not possible to provide temporary planning approval to review these management controls. They could not be enforced by Environmental Health Legislation.
2. Provision of enclosed car wash area and replacement drainage would resolve the matter but I understand the cost would be prohibitive at the present time and rate of usage.
3. If the operation removed the use of lance pressure washer from the scheme replacing with hand washing only, the level of disturbance would be acceptable, however this may not be a practical option for the vehicles being cleaned.

As such, should the application be approved I would ask that the applicant provide in writing a scheme approved by the Local Planning Authority for the protection of local residential properties from noise/ spray and this scheme should highlight the management controls they intend to implement.

Head of Technical Services

Highways comments

The applicant has demonstrated a 1-way system within the site and suitable visibility is available at the exit. This proposal will not create a highway safety concern and there are no highway objections.

Informative: The applicant must ensure that there is no escape of water onto the adopted highway.

Landscape & Visual Comments

This proposal has no landscape or visual implications.

Northumbrian Water Limited

In making our response Northumbrian Water assess the impact of the proposed development on our assets and assess the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control.

I can confirm that following the amendment to the site plan, we would have no comments to make.

Councillor I Dalgarno
Councillor Mick Moore

No comments received

PUBLICITY

11. Neighbours were notified and comments received are set out below :-

Mrs Shonagh Myers
2 Darbyshire Close Thornaby

Objection to the application due to the excessive noise caused by the jets and radio. The cars that exit the car wash drive directly behind our property and therefore cause a privacy issue as they can see into the garden. As the exit is so far from the main work area and not manned, this is again a security risk as anybody could gain access from the road. When it was a bus depot this gate was locked and secure. In addition, a skip has been placed on the other side of our fence for months and large pieces of litter is continually coming into the garden. This application could potentially affect the value of my property, it is unsightly from the back of the house and I don't see how adding a 2 meter fence would add any improvement. The reason we chose the area was because it was quiet and the noise from the car wash has meant that we cannot enjoy our back garden. The excess water from the car wash has caused drainage issues and as a result part of our garden had to be dug up because the drains were overflowing (explanation given by building contractors)

Mr and Mrs Hall

4 Darbyshire Close Thornaby

When we moved to the property 2 years ago the bus depot at the above location, we bought out home knowing it was a business. What we didn't factor was its change of use, the business is open 7 days a week, no respite, the jet machines are so loud it's difficult to sit out and talk, as the cars go past they can see into our property. We are thinking of buying some kind of wall covering but why should we at our own expense. The radio they have is on constantly and very loud so they can hear it over the jet, they constantly shout. A skip has been left direct outside our property so every time they dump stuff they look in on us. The sign at the end of the Martinet Road makes it a blind spot and the other near the police station is a tripping hazard.

Also on the Martinet Road and Darbyshire Close junction they have no drainage on their property so the water is left to drain into the road and path, my 3 year old has slipped twice through ice and mud. In the summer we tend not to use the garden due to the noise of cars, the water jet, the shouting, the radio and when it's windy the water sprays in our garden, its open 7 days from 0830-9am until 5-6pm, the same hours on a weekend! The cars leaving the business don't slow down and there are signs asking them to slow for pedestrians and the mucky water is a hazard. We used to enjoy leaving our French doors open during the day or on an evening all you hear is the jet wash, my children can't have their windows open if they have naps due to the noise, my windows at the back are muckier than the front if the wind is in our direction. For a 'handwash' business, the jet wash is so loud. In the summer they don't finish at 5pm they keep going until there are no customers then finish for the day.

Miss S Browne

6 Darbyshire Close Thornaby

I firmly object. The hand car wash is a constant nuisance, a noise pollution and a disruption to my peaceful living and enjoyment. The operation is currently operating 7 days a week 9am till whenever (later in the summer months). The water spray travels from the premises to my house and garden fence last summer while trying to enjoy my garden. I was unable to have a conversation without raising my voice and was sprinkled with water from the spray.

I would like to add an additional comment.

In light that this request maybe passed I would ask that it is done so with restrictions.

I appreciate the busy time for this business will be weekends and as well as evening during the summer months, however this is the time when the surrounding home owners want the opportunity to have the option of peaceful enjoyment of their own property.

Therefore I would like a strict day and time in which the business can operate;
Monday to Friday 9am - 5pm (irrespective of the time of year)
Saturday, Sundays - 11am - 3.00pm (again irrespective of the time of the year)
Bank Holidays - No operation.

I understand that such limitation will affect the turnover of the business however that needs to be considered alongside the residential environment in which the business is operating.

Katy Wass

26 Darbyshire Close Thornaby

I object to planning permission for the hand car wash due to the noise disturbance from the jet wash all day 7 days a week this noise starts from as early as 8am on a morning and continues all day long. Even when my windows are closed I can still hear the constant noise from the jet wash - I have a young family and this noise often wakes them up.

Steven Smith

32 Darbyshire Close Thornaby

I will start by saying I don't have anything against hard working people trying to earn a living, and would not mind if it was a hand car wash (i.e. bucket and sponge). Unfortunately it is far from that and so I make the following objections;

Noise; the noise levels are ridiculous. I can't spend as much time in the garden as I would like as it sometimes unbearable. As well as noise from the jet wash, music can be often be heard at high volume.

Spray; I constantly have spray coming over my fence, which is a pain, especially if I have guests in the garden or washing on my line.

Working Hours; I have been in my property just over 12 months and can count on one hand the number of days it has been closed. It opens too early and closes too late (7-8pm in the summer months).

Litter; The amount of litter/cigarette ends that the end up in my garden is unacceptable. I know this is mainly customers but a simple bin would solve this problem.

Fence; a fence has recently been put up to stop spray. I say 'fence', it is basically cheap boards nailed to my fence. Not only does it protrude a foot above my fence (which looks horrible) it has been nailed very unprofessionally as the nails protrude into my garden and are very dangerous for my 5 year old son and his friends when they are playing.

The wood stand a very good chance of rotting very quickly which will impact on my fence. No gaps have been left between boards effectively creating a sail for windy days.

Christine Carman

34 Darbyshire Close Thornaby

I object to planning permission for the 'hand car wash'. Since moving into my new build residential property I have had to endure the consistent noise from the 'jet wash' used by this company operating as 'Bubbles car wash'. They have been operating without permission and this was highlighted through complaints about noise to the enforcement team. They have been operating from 9am to 7-8pm sometimes later, 7 days a week. There is often music played loudly in the summer months which too has been reported. The area is a dumping ground for part dismantled cars, a huge tree trunk and there is lots of water pooled around which encroaches nearby boundaries.

I have reported to Stephanie Landles on several occasions and they have been told to reduce the pressure of the jet wash to reduce noise but this soon is returned after a few days up to the noise again. I cannot open my windows or sit in my garden as the 'noise' from the jet wash is so loud.

I would not object to the car wash if it were not for the noise and problems from excess water/leak of drainage/water spray.

The noise nuisance has been a problem from the past 18 months and has had a detrimental effect on my property value as the garden cannot be enjoyed at all due to noise -can't even hold a conversation with another person as an example of how loud this is. If I open windows I cannot hear TV and I can still hear the noise with the windows closed.

Mr Jason Tarnai
3 Martinet Road Thornaby

We would strongly object to planning permission being granted for the car wash. The primary reason being the excessive noise created by the continuous use of the pressure washers, specifically the sound of the high pressure jets of water emanating from the lances and reverberating off the vehicles and buildings. Having these in use from 8am until dark, 7 days a week, in such close proximity to a residential area is unacceptable. The sound of the pressure washers can be distinctly heard inside the house even with all doors and windows closed and has rendered peaceful relaxation in the garden impossible. The intolerable elevated noise level has blighted an otherwise peaceful neighbourhood and has adversely affected our quality of life and resale value of our property.

PLANNING POLICY

12. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan
13. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

The following planning policies are considered to be relevant to the consideration of this application:-

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking;

For decision-taking this means:

approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
-specific policies in this Framework indicate development should be restricted.

MATERIAL PLANNING CONSIDERATIONS

14. The main planning considerations with respect to this application are the principle of development, the impact on the character and appearance of the surrounding area, the

impact on the amenity of neighbouring properties and the impact on highway safety. These and any residual matters are considered below.

15. As set out in full above, 7 letters of objection have been received to date from the following neighbouring properties; 2, 4, 6, 26, 32, 34 Darbyshire Close and 3 Martinet Road. These objections can be summarised as follows;

- Retrospective application and use is already causing nuisance in terms of noise as a result of jet washers, music being played, close proximity, operating hours/days
- Spray nuisance and drainage issues with spray running into adjacent residential boundaries
- Use not suitable for area
- Loss of amenity and privacy
- Increase in litter
- Impact on highway and pedestrian safety
- Additional fencing has been erected along the adjacent boundary to 32 Darbyshire Close
- Property devaluation

Principle of development

16. The National Planning Policy Framework states that "*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system*".

17. In order to achieve sustainable economic growth, the Government's objectives for planning include "*delivering more sustainable patterns of development by reducing the need to travel, especially by car and respond to climate change*".

18. The scheme relates to the provision of a commercial use within an established commercial site that lies adjacent to a residential area. Notwithstanding the established siting of the building (prior to the adjacent residential development being approved in 2006), the commercial use of buildings adjacent to residential areas requires careful consideration as general industrial uses or 'sui generis' uses (as per the current scheme) raise a number of issues including highway safety and amenity, matters of which will be considered below.

19. The application site is located within the defined limits to development and the use would be within the curtilage of an established commercial site. Although the use is one that would primarily rely on vehicles travelling to the site, the site's proximity to residential areas and public transport are noted. As such the site is considered to be sustainable and accords with the general provisions of the National Planning Policy Framework.

20. The scheme is considered to have economic benefits in terms of employment (the submitted application form indicates 4 full time employees). Notwithstanding the current uses within the buildings, it is understood from the site history that the building and site has historically operated as a B2 Use (general industry used for the carrying out of an industrial process). As such consideration is to be given to the potential 'fall back' position of the building and associated yard being able to change to B1 Use (Offices not within the A2 Use, research and development and light industry) or to revert back to a B2 Use without requiring planning permission.

21. In view of the above considerations, it is considered that on balance, the principle of a commercial use within an established commercial site is considered to be acceptable in this specific instance, subject to the scheme satisfying other material considerations as set out below.

Amenity

22. Paragraph 123 of the NPPF states

*"Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
*mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
*recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established and
identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason".

23. As detailed above, the letters of objection from neighbouring properties raise concerns relating to a loss of amenity including noise disturbance as a result of the jet wash (and generator), spray nuisance, the operating hours/days and music being played (from a radio). Objections have been received from residents to the east of the site along Darbyshire Close with respect to vehicles passing close to the adjacent rear boundary of these properties.
24. The applicant has indicated hours of operation as set out above. The Environmental Health Unit (EHU) considers these hours to be acceptable having regard to the existing lawful use of the site for general industrial use subject to the Sunday hours being restricted to closing hours of 1600hours, which the applicant has agreed to. Subject to this, the Environmental Health Unit has raised no objections to these hours which can be secured by way of a planning condition.
25. Nonetheless, it is understood from the objections received that the applicant has operated at times of the day later than those stipulated, particularly in the summer months. As such, should the applicant operate outside of the approved hours of condition, the applicant would be in breach of a planning condition whereby a Breach of Condition Enforcement Notice could be served and for which there is no right of appeal to the Secretary of State.
26. The breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of control arising from failure to comply with any planning condition or limitation. But it may also be served in addition to the issue of an enforcement notice, as an alternative to a stop notice, where the Local Planning Authority consider it expedient to stop the breach quickly and before any appeal against the enforcement notice is determined, because, for example, it is causing serious environmental harm, or detriment to amenity or public safety. It is particularly apt for use where a valid planning condition has clearly been breached and the salutary experience of summary prosecution (or the threat of prosecution) seems likely to compel the person responsible to comply with the condition.
27. With respect to noise resulting from jet washers (and an associated generator) and the matter of spray nuisance, the Environmental Health Unit Manager (EHUM) has visited the site (whilst the hand car wash use and jet sprays were operational). As a result of this assessment, the EHU have requested that the generator be sited internally within the building (annotated as being the valet/storage area on plan SBC0003C), that no music is played in the external yard or any lighting is erected in the external yard. The applicant has

agreed to these requirements, to which the siting of the generator within the building (which has already been done), the control over music being played internally only and no external lighting, can be secured by separate planning conditions.

28. With respect to the noise and spray nuisance resulting from the jet washers, the applicant has submitted a scheme for the erection of a 2m high screen (for 6m in length) to be sited immediately adjacent to the jet spray wash area (set off the main building by approximately 9m). The applicant has submitted a plan indicating the siting of the screen fence (and how this would be positioned) and a 'working' layout of the car wash (including access/egress).
29. The proposed screen would be sited approximately 4m from the adjacent boundary to the east and at an oblique separation distance of approximately 8m and 12m from the rear elevations of No's 30 and 32 Darbyshire Close (south east) respectively; approximately 18m and 30m from No 34 and Annie House (south); approximately 29m from the rear elevations of No's 10-16 (evens) Darbyshire Close (east); approximately 32m from the rear of No's 2-8 (evens) and approximately 53m from the rear of No's 1 and 3 Martinet Road (north east). An existing 2.4m high (approx.) open boarded fence is present along the boundary to the residential properties along Darbyshire Close. The highway of Master Road separates the site from nearest residential properties on the western side of the road with a separation distance of approximately 25m between these properties and the site entrance.
30. It is considered that the provision of the screen fence would assist in restricting jet washer operations to the area between the rear elevation of the building and the proposed screen fence (and therefore away from residential properties and the adjacent boundary). The controlled use of the jet washers in this location (as indicated on the working layout site plan) is considered to be necessary and can be secured by a planning condition. A further planning condition can ensure that the erection of the screen fence is implemented on site in accordance with the agreed details within 2 months from the date of the decision notice, taking into account the retrospective nature of the application.
31. Notwithstanding the siting and provision of a 2m high screen, the EHU Manager has stated that "*if not managed properly the scheme does have the potential to affect the amenity of neighbouring residential properties. This results predominately from the use of the lance pressure washer and the associated noise and water spray*". The EHU Manager has therefore recommended a planning condition for a scheme for management controls of the use to prevent any unacceptable impacts on residential amenity. In view of the retrospective nature of the application, a further planning condition is recommended to ensure that such details are submitted within 2 months from the date of the decision notice and that the management measures are implemented within a month of the written agreement of the Local Planning Authority. The applicant's agent has been made aware of this requirement in writing.
32. Subject to the provision of this screen for the stipulated length (6m) and height (2m) and a scheme for management controls, the EHU Manager raises no objections in principle to the scheme in terms of noise disturbance and spray nuisance.
33. As noted above, consideration is given to the established siting of the building, adjacent yard area and access/egress from the site in relation to the residential development that was granted planning permission as recently as 2006 (reference 05/0946/FUL). Further consideration is given to the fall back uses that the existing building could operate as without requiring planning permission. In view of the above required planning conditions, this would in effect provide the Local Planning Authority with a level of control over the use of part of the building and adjacent yard that currently does not exist (notwithstanding any controls by other environmental legislation).

34. In view of the above considerations including the imposition of the appropriate planning conditions, separation distances to neighbouring land users and the established commercial nature of the site and its relationship to the residential development to the east/south east/north east and surrounding areas, it is considered that on balance, the scheme will not result in an unacceptable loss of amenity in terms of outlook, overlooking, overbearing, noise disturbance and spray nuisance for neighbouring land users as to warrant a refusal of the application.

Drainage matters

35. With respect to matters of drainage, the applicant's agent has confirmed in writing that there are two drains connected by a drainage channel within the site, to which the hand car use is located within close proximity of, to allow surface water run off to enter the existing drainage system.
36. Following an on-site assessment by the EHU Manager, no objections have been raised in this respect, subject to the appropriate management of the drains (which appeared to be partially clogged up when on site). This management requirement can form part of the necessary management controls for noise and spray as set out in paragraph 29.
37. Furthermore, Northumbrian Water Limited (NWL) has been consulted on this application and has raised no objections to the scheme. Subject to the management of the existing drainage facilities, it is considered that the current drainage scheme is acceptable in this instance and that the scheme would not result in an unacceptable impact on the amenity and drainage of neighbouring land users.

Character and appearance of surrounding area

38. As detailed above, the existing building(s) and adjacent yard area comprise part of an established commercial operation within the area with benefitting from a general industrial use (B2 Use).
39. The applicant has submitted a scheme for the erection of a 2m high screen fence, which would be set off the rear of the existing building and away from the adjacent residential boundaries to the east (a separation distance of approximately 4m remaining). An approximately 2.4m high residential boundary fence is in place along the eastern boundary. As a result of the orientation of the main building and the adjacent highway of Master Road (west), it is considered that limited views are achievable to the scheme from the wider area/main highway.
40. In view of the current scheme not entailing any significant external alterations to the existing buildings it is considered that the change in use of the building would not adversely affect the character and appearance or the visual amenity of the surrounding area.
41. With respect to the siting of the erected 2.6m high (approx.) fence panels/boarding that have been affixed to the adjacent boundary fence to No 32 Darbyshire Close, the fence panels require planning permission as they exceed the permitted 2m height. As detailed above, the matter has been referred to the Planning Enforcement Section to investigate further.

Highway safety and access

42. The Head of Technical Services (HoTS) has raised no objections to the scheme in terms of highway and pedestrian safety commenting that the applicant has demonstrated a 1-way system within the site and suitable visibility is available at the exit onto Martinet Road

(northern section). Notwithstanding the drainage considerations set out above, the HoTS has requested that the applicant ensures that water does not run off on to the highway, confirming that this can be secured by an informative. Any resultant issues would be enforced against under separate highway legislation.

43. In view of the above considerations, it is considered that the development would not result in an adverse loss of highway and pedestrian safety.

Residual matters

44. A number of objections have referred to the retrospective nature of the application in which the use has been operating for several months without planning permission. After the matter was brought to the attention of the Planning Enforcement Section, the applicant has chosen to submit a retrospective application to seek to regularise the situation. Whilst the Local Planning Authority does not condone such applications, to seek the submission of a planning application is the first step of planning enforcement action (unless there is significant material harm that would require an Enforcement Stop Notice). Furthermore, it is considered that the recommended planning conditions would make the development acceptable in planning terms and enable the Local Planning Authority to serve a Breach of Condition Notice if the planning conditions were not complied with as indicated earlier in the report.
45. Property devaluation is not material a planning consideration.
46. With respect to the siting of signage on Master Road and Martinet Road, this matter is currently being investigated by the Planning Enforcement Section.
47. The letter of objection from No 2 Darbyshire Close has raised concerns regarding the exit from the site (to the north along Martinet Road) with respect to this creating a potential loss of privacy and a security issue. Whilst these comments are noted, given that the access/egress is an established vehicular access, and in view of the above considerations in which the scheme is considered to be acceptable from a highway safety and can by the imposition of appropriate planning conditions be made acceptable in relation to residential amenity, it is considered that the current scheme will not significantly worsen the existing situation in this respect. Matters of site security would need to be managed by the land owner or controlled under separate legislation to planning.
48. With respect to matters of litter from customer vehicles, whilst these comments are noted, in view of the nature of the use being one that should not normally generate litter from visitors (as opposed to a use such as a takeaway or shop that would), it is not considered reasonable to request the provision of litter bins on the site in this instance. As such, any further matters would be controlled under separate legislation to planning.
49. It is noted that a skip was present on site, adjacent to the boundary of the properties along Darbyshire Close (north east), adjacent to the vehicular exit. However as the skip does not form part of the current application, any matters of waste management/environmental issues would be controlled under separate legislation.

CONCLUSION

50. The scheme is considered to accord with the general principles of the National Planning Policy Framework as the scheme is considered to accord with the principles of sustainable development. The scheme is not considered to have an adverse impact on the character and appearance of the area or lead to an unacceptable loss of amenity for neighbouring

land users or highway safety subject to compliance with the recommended planning conditions.

51. It is recommended that the application be Approved with Conditions for the reasons specified above.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Daniel James Telephone No 01642 528551**

WARD AND WARD COUNCILLORS

Ward	Village
Ward Councillor	Councillor I J Dalgarno

Ward	Village
Ward Councillor	Councillor Mick Moore

IMPLICATIONS

Financial Implications: As report.

Legal Implications: As report

Environmental Implications: As report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report. The detailed considerations within this report take into account the impacts on neighbouring properties, visitors to the area, pedestrians and other relevant parties responsible for; or with interests in the immediate surrounding area. Consideration has been given to the level of impact and mitigating circumstances with conditions being recommended to reduce the impacts of the scheme where considered to do so.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report