

Report of the Chief Executive

**18/00384/FUL
 ERECT PORTABLE BUILDING TO CREATE PUBLIC CAFÉ FACILITY
 WITH DECKING
 R G SERVICES SITE, GIN CLOSE WAY, AWSWORTH,
 NOTTINGHAMSHIRE NG16 2TA**

Councillor L A Ball BEM requested this application be determined by the Committee.

1 Details of the Application

1.1 This planning application aims to erect a portable building at the existing car wash to be used as a café facility. The café will predominantly be for the use of customers of the car wash as a waiting area and facility to purchase refreshments.

1.2 The proposed café unit will be positioned in the south west corner of the site. The unit will have dimensions of 2.44m by 6.1m, with a flat roof and a height of 2.44m. A decking area to the front of the unit will be provided and will also act as a security cover to the front of the unit when it is not in use. The decking area will have dimensions of 2.44m by 6.1m.

2 Site and Surroundings

2.1 The application site is set off Gin Close Way on the edge of Awsworth and is currently used as a car wash business. The proposed café will be positioned approximately 3m from the west boundary of the site adjacent to Gin Close Way and approximately 3.2m from the south boundary of the site which adjoins a vacant site which has planning permission for the development of 55 dwellings under permission 15/00011/FUL.

2.2 The application site adjoins the Green Belt to the west, but is not Green Belt land.



Position of proposed café unit.



Position of proposed café unit.



Position of proposed café unit with wider site in the background.



Car wash site.



Car wash site.

3 Relevant Planning History

- 3.1 In 2014, planning permission 14/00549/FUL was granted to change the use of the site from a haulage depot to a range of uses including the car wash. The decision also granted permission for a 2m high green mesh metal fence to the front boundary.
- 3.2 In 2017, planning permission 17/00514/FUL was granted to retain the car wash business including the canopy, customer waiting shed, valeting area, staff facility within the caravan, ancillary car sales area, hard standing and boundary fence. This permission was required as although permission was granted in 2014, the business operations had not been developed in accordance with the approved plans.

4 Policy Context

4.1 **National policy**

4.1.1 The National Planning Policy Framework (NPPF) July 2018, outlines a presumption in favour of sustainable development, that planning should be planned, decisions should be approached in a positive and creative way and high quality design should be sought.

4.2 **Broxtowe Aligned Core Strategy**

4.2.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

4.2.2 'Policy A: Presumption in Favour of Sustainable Development' reflects the presumption in favour of sustainable development contained in the NPPF. Applications which accord with the Local Plan will be approved without delay unless material considerations indicate otherwise.

4.2.3 Policy 10 aims to ensure that development has regard to the local context and is assessed in terms of its impact on the amenity of neighbouring residents.

4.3 **Saved Policies of the Broxtowe Local Plan**

4.3.1 The Part 2 Local Plan is currently awaiting Examination hearing sessions. Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved. Relevant saved policies are as follows:

4.3.2 Policy S7 states that proposals for Class A3 (food and drink) uses outside the town centres will not be permitted if their individual or cumulative effect would cause environmental or traffic problems or detriment to residential amenity.

4.4 **Part 2 Local Plan (Draft)**

4.4.1 The Part 2 Local Plan includes site allocations and specific development management policies. The draft plan has been submitted for Examination, with examination hearing sessions currently anticipated to take place toward the end of this year. The representations on the plan included 4 and 11 no. representations in relation to Policy 13 and 17 respectively. Given that there remain outstanding objections to Policy 13 and 17 that will need to be considered through the Local Plan examination process, these policies can be afforded only limited weight.

4.4.2 Policy 13 states that permission will be granted for food and drink uses in out-of-centre locations providing it does not result in a unit of 500 sq.m gross floorspace or more, and is an area of deficiency and meets local needs, and such a use does not result in a significant adverse impact on the vitality and viability of any nearby centre taking account of both extant permissions and the cumulative effect of previous increases in floorspace in edge-of-centre and out-of-centre locations.

4.4.3 Policy 17: Place-making, Design and Amenity sets out design criteria that all new development must adhere to where relevant.

5 Consultations

- 5.1 The Environmental Health Officer does not raise any objections in relation to this proposal. It has been recommended that an informative note be attached to any permission granted notifying the applicant that it is a legal requirement that the food business must be registered 28 days prior to commencement of operation and. It has also been highlighted that it is unlikely that the premises will comply with the requirements of the relevant food hygiene legislation, especially with regards to toilet and ventilation provisions.
- 5.2 Awworth Parish Council objects to the proposal on the grounds that the container would be in a prominent open location adjacent to the main entrance to the village of Awworth and would have no architectural or aesthetic merit. It would be in stark contrast to the timber summerhouse building located to the east of the proposed structure which is already used by waiting customers and it is unclear why this building cannot be used for the café. An additional concern is that the proposed café would not be restricted to use by car wash customers only.
- 5.3 The Parish Council also notes that Condition 4 of planning application 17/00514/FUL regarding landscaping has not been adhered to and is therefore of the view that the current application should not be determined until such a time as the applicant complies fully with the previous conditions. The Council is in discussion with the applicant regarding Condition 4 of planning permission 17/00514/FUL and are awaiting the submission of a landscaping scheme. The Council would not be able to withstand the refusal of this application based solely on non-compliance with a condition of a historic application.
- 5.4 Consultation letters have been sent out to 3 neighbouring properties in respect of this application and a site notice was posted at the site on 24 September 2018. Two objections from members of the public have been received on the grounds that the proposal is unsightly due to the addition of another building on the site and that it would affect a nearby business.

6 Appraisal

- 6.1 The main issues to be considered with this application are the principle of the siting and use of the café in this location, impact on neighbouring amenity and the design and appearance of the proposed unit.

6.2 Principal

- 6.2.1 The proposed café represents a food or drink use outside of a town centre. The NPPF requires the submission of a sequential assessment to examine whether there are any sequentially preferable sites either in or on the edge of nearby centres. The unit will provide 160 sq.m of floorspace and will largely be used for the provision of refreshments to customers using the car wash. The floorspace to be provided is well below the limit of 500 sq.m as set out by Draft Part 2 Local Plan Policy 13. Considering its location on the edge of a village as opposed to a major town centre, as well as its clear intended use to primarily serve customers already visiting the site it is not considered that it will have a negative impact on

the vitality and viability of any town centres, and for these reasons it is not considered that there are any sequentially preferable sites.

- 6.2.2 As the intended use of the café is for customers of the car wash it is not considered that the proposal will result in a significant increase in traffic in the surrounding area. Furthermore, taking into account the relatively small size of the unit it is not likely to attract people from the wider area who would drive to the site specifically for this use. Therefore it is not considered that the proposal will result in a significant increase in traffic in the surrounding area.
- 6.2.3 Taking the above points into account it is considered that the principle of the proposal is in accordance with saved Policy S7 of the Local Plan (2004) and Draft Part 2 Local Plan Policy 13.

6.3 Amenity

- 6.3.1 The proposed unit is located in the south west corner of the site, adjoining Gin Close Way to the west with the car wash covering the area to the north. There are therefore no concerns with regards to impact on amenity to the north and west of the site.
- 6.3.2 Planning permission 15/00011/FUL has been granted for the development of 55 no. residential dwellings on the site to the south and south east of the application site. The plans for this development show that residential units will adjoin the boundary with the car wash. The residential units proposed will be set back from the car wash by their rear gardens, and considering the relatively limited proposed height of the café unit at 2.44m it is not considered that the proposed unit will have an unacceptable visual impact on these units that have already been granted permission.
- 6.3.3 Taking into account the existing commercial use of the application site it is not considered that the proposed café will have any further impact on neighbouring amenity in terms of noise and disturbance. A condition regarding operating hours was attached to the previous permission on the site for the use of the car wash and therefore it is considered appropriate to attach the same condition to this proposal should permission be granted.
- 6.3.4 Overall it is considered that the proposed café unit will not have an unacceptable impact on neighbouring amenity.

6.4 Design and Appearance

- 6.4.1 The proposed unit will occupy a relatively prominent position within the site, being clearly visibly from Gin Close Way. However, steps have been taken to minimise its impact, locating it close to the south west boundary of the site, with the background hedging. It is also sited side on to Gin Close Way, reducing the massing of the building at this visible point and has been positioned so it will be no closer to Gin Close Way than the existing canopy structure which is much larger. There are a number of similar size buildings within the site including the structure for the staff area, the valet area, the main canopy for the car wash and the existing customer waiting unit.

- 6.4.2 The proposed unit is of a size and scale that is in keeping with the existing buildings on the site, and the elevation drawing submitted states that it will be painted green to help it to blend in with its surroundings. The addition of this structure in addition to the existing buildings on the site could be a cause of concern in regards to the number of structures in their totality creating a cramped form of development.
- 6.4.3 During a site visit the applicant suggested that the proposed café unit will replace the existing waiting area, which will be removed as a result. In order to overcome the negative impact of overdeveloping the site it is considered appropriate to condition that the existing waiting area is removed prior to the first use of the new café.
- 6.4.4 Taking into account the existing commercial nature of the site and the style of the buildings located there it is considered that the proposed building would not be out of keeping with the character of the area. Whilst the building occupies a prominent position to be visible from the public realm it will be of a size and scale that will not be overly dominant in the context of the site or the street scene. Overall it is considered that a satisfactory standard of design has been achieved.

6.5 Conditions

- 6.5.1 Planning permission 17/00514/FUL for the change of use of the site to a car wash conditioned that the car wash shall not be open for business except between the hours of 07.30 - 21.00 hours Monday to Saturday and 07.30 – 18.00 hours on Sundays and bank holidays. As the proposed café will principally be used in accordance with the car wash it is considered appropriate to attach the same condition should permission be granted for this café.
- 6.5.2 Taking into account the relationship of the proposed café unit with the car wash, it should be conditioned that the structure should be removed from the site within one month of the cessation of the car wash business. This condition will protect the site against being used solely as a food or drink premises should the car wash cease operating in the future.

Recommendation

The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.**
- 2. The development hereby permitted shall be carried out in accordance with drawing numbers 05/18/01 (1:100) and 07/18/01 (1:1250); received by the Local Planning Authority on 1 August and 16 August 2018.**
- 3. Prior to the first use of the café unit hereby approved, the existing structure used as the customer waiting area, positioned to the east of the structure hereby approved shall be removed from the site.**

4. The café unit hereby approved shall not be open for business except between 07.30 - 21.00 hours Monday to Saturday and 07.30 – 18.00 hours on Sundays and bank holidays.
5. The café unit hereby approved shall be painted green within one month of being on site and shall be retained in this colour for the lifetime of the development.
6. The approved portable building and associated decking shall be removed from the site within one month of the cessation of the car wash business.

Reasons:

1. To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To ensure the satisfactory standard of external appearance of the application site and in accordance with the aims of Policy 10 of the Aligned Core Strategy (2014) and Policy 17 of the Draft Part 2 Local Plan.
4. In the interest of protecting the area from excessive noise and disturbance during night time hours.
5. To ensure the satisfactory standard of external appearance and in accordance with the aims of Policy 10 of the Aligned Core Strategy (2014) and Policy 17 of the Draft Part 2 Local Plan.
6. In accordance with the terms of this application as the occupation of this site by another operator should the car wash business cease to run may be unacceptable.

Notes to Applicant:

The Council has acted positively and proactively in the determination of this application by communicating with the agent throughout the course of the application.

It is a legal requirement that the premises are registered 28 days prior to commencement of operation. However, regardless of whether planning permission is obtained, it is unlikely that the premises will comply with the requirements of the relevant food hygiene legislation, especially with regards to toilet and ventilation provisions. The applicant is advised to contact the Environmental Health Team on 0115 917 3485 for further advice prior to commencement.

Background papers
Application case file

