



PLANNING COMMITTEE

9th September 2010

Report of Head of Planning and Building Control

Car wash at 1A High Street , Moxley, Darlaston

1.0 PURPOSE OF REPORT

A report concerning failure to comply with a Breach of Condition Notice which required the use of jet washing equipment at a permitted car wash to cease.

2.0 RECOMMENDATIONS

- 2.1 That authority is delegated to the Assistant Director - Legal and Constitutional Services to institute legal proceedings, in consultation with the Head of Planning and Building Control, to prosecute in respect of the failure to comply with a Breach of Condition Notice which requires the use of jet washing equipment to cease .

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends further action to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

The legal remedy available in situations of failure to comply with a Breach of Condition Notice is prosecution. If convicted for non-compliance the defendant would be liable to a maximum fine on 'level 3', currently £1000. If the defendant continues to not comply with the Notice then they could face further prosecution.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7.0 ENVIRONMENTAL IMPACT

The report recommends further action to improve visual impact and thereby comply with planning policies.

8.0 WARD(S) AFFECTED

Darlaston South

9.0 CONSULTEEES

Pollution Control Services – Neighbourhoods

Planning application 08/0031/FL for the continued use of former petrol filling station to hand car wash was subject to normal publicity.

10.0 CONTACT OFFICER

Philip Wears

Planning Enforcement Team: 01922 652527 / 01922 652411

11.0 BACKGROUND PAPERS

Planning application 08/0031/FL.

Enforcement file not published

David Elsworthy - Head of Planning and Building Control.

Planning Committee

9th September 2010

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 This report concerns a failure to comply with a Breach of Condition Notice which was issued under delegated powers. The site is on a main road.
- 12.2 In March 2008 planning permission was granted retrospectively for the change of use of this former petrol filling station to a hand car wash and valet. Conditions were attached including one prohibiting the use of jet washers unless agreed with the Local Planning Authority, and one requiring further details to be submitted for approval of a noise survey and noise mitigation measures (there are houses at the rear of the site, and nearby).
- 12.3 Warning correspondence with the applicant resulted in a survey by a noise consultant being submitted. This concluded that noise levels were too high for residents nearby, mainly owing to the use of jet washers, but also to a lesser extent owing to the use of vacuum cleaners. However firm proposals for noise mitigation have not been submitted. Discussions have taken place regarding mitigation measures such as increasing the height of the rear boundary fencing, a secondary noise barrier, and the positions in which machinery is used, but little progress has been forthcoming. It is possible that the use of jet washers could be approved, subject for example to agreeing a scheme of noise mitigation under the appropriate condition. This has not yet been possible.
- 12.4 The use has been consistently in breach of the condition prohibiting jet washers and no approval has been given for their use. A Breach of Condition Notice was therefore served in June 2010 under delegated powers, to require the use of jet washers to completely cease.
- 12.5 The compliance period given was 5 weeks from the date of receipt of the Notice (the trigger in the legislation). The use of jet washers has continued. Authority is therefore requested to pursue a prosecution.
- 12.6 The applicant recently submitted a noise survey by another consultant, who claims that as domestic type jet washers are now being used, noise levels are lower and satisfactory. Officers are considering this, and are seeking to relate the survey to recognised noise measuring methodologies. This is not seen as an impediment to the recommendation in this report.

1A High Street, Moxley, Darlaston

