DELEGATED DECISION REPORT

SMD/2020/0415 **Valid 22/10/2020**	**KINGSLEY MOOR FILLING STATION LEEK ROAD KINGSLEY MOOR**	**TO CHANGE FROM ROLL OVER CARWASH TO HAND CAR WASH** **(FULL - MINOR)**

MAIN ISSUES
To review the decision and 'temporary' 2 year permission that was granted in January 2018, and to determine, relative to the impacts on neighbouring amenity, whether a further permission should be granted.

DESCRIPTION OF SITE
This application relates to Kingsley Moor Filling Station, a long-established petrol filling station positioned on the southern side of the A52 Leek Road close to the junction between the A52 and A522. Jones and Shuffs Bathroom, Showers and tiles/central heating and The Woodlands Farm occupy the site immediately to the east. Hilltop House is positioned to the south and Beechdene bounds the site to the west.

PROPOSAL
Change of Use to land at the rear of a petrol filling station to provide an attended hand car wash service located to the rear of the filling station kiosk. The use is to operate on a drive in drive out basis with no prior booking required. Customers would utilise the existing filling station entrance and enter the car wash station to the east of the kiosk, driving along the southern site boundary and exiting the station to the west of the kiosk.

A previous planning permission granted for this use was time limited to 2 years, that period came to an end just before the COVID pandemic, and the use ceased with much of the equipment removed and the use was not operational on the date of this application.

A recommencement of that use would be a new change of use that needs a fresh new planning permission.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan Development Plan Document (Adopted 2020)
S01 Spatial Objectives
SS1 Development Principles
SS10 Other Rural Area
DC1 Design Consideration
SD4 Pollution.

National Planning Policy Framework

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
SMD/2017/0098 Change of use to hand car wash. Approved for a temporary 2 year period.

CONSULTATIONS

Publicity
Site Notice expiry date: 16th Nov
Neighbour consultation period ends: 16th Nov
Press Advert: N/A

Public Comments
An Objection has been reived from the nearest adjacent neighbour.

A fence was erected last year which had little effect on the noise and no effect on engine pollution or spray on their windows.

Town / Parish Comments
Cheadle Town Council: Awaited

Environmental Health
On the previous application before the installation of an acoustic fence they reported:

The Leaq(t) levels when the car wash is operating are measured as 59dbA (10 minutes and not operating as 54dbA (15 minutes). But due to the nature of the sound (tonal nature) we apply a penalty of +4dB. This causes the noise impacts of the car wash on the neighbouring property to be +9db. So, there is a need for the car wash to achieve at least a 4-5db noise reduction to ensure there is a reasonable protection for the neighbours' amenity.

They recommended conditions requiring the provision of an acoustic fence/ noise barrier to be erected in accordance with details that were agreed and time limits on operating hours. They were satisfied that the scheme will protect the amenity of Beechdene to a greater extent than the pre-existing arrangements; noting however that the proposed measures would not eliminate the impact and noise from the hand car wash would still be audible from this neighbouring property.

In response to this application the EH officer refers us back to previous comments.

Staffordshire County Council Highways
No Objection

OFFICER COMMENTS

Impact on Green Belt
With consideration of the previous application, it was found that the development would not be inappropriate. There is no reason to disagree with that assessment in respect of this application.

Amenity
The temporary 2 year permission was granted on the condition that they provide the acoustic barrier within 1 month of that Jan 2018 permission, and operating times be limited to protect a first floor bedroom window that would be above the height of the barrier. They erected the barrier in accordance with a scheme and details that had previously been submitted to and agreed by the LPA in consultation with environmental health colleagues – a fence erected on the boundary close to the receptor, 3m high, constructed from material of sufficient and impervious density. That fence was erected, and the carwash operated for two years in accordance with their operating time conditions, without complaint from the neighbour to Environmental Health or any other department. The fence remains in place on the date of this application.



Despite relatively positive comments from EH, and the applicant showing a willingness to comply with their requirements, it was decided that the previous permission be limited to a temporary period to “allow the situation to be monitored and to ensure that the mitigation measures achieve the desired reduction in noise levels”.

However, the terms of the permission made no further requirement of the applicant, beyond the erection of the fence and the restriction on hours, and specifically there was no mechanism put in place for any review or monitoring of noise levels and breakout during normal operation once the fence had been erected. The applicant was not required to follow up and submit a noise assessment for example.

Consequently, at the end of that period with this application, we are not any further forward in understanding how effective the fence and other mitigation might have been in reducing the noise. The applicant did not conduct any kind of noise assessment when the car wash was operational, why would he there was no requirement for him

to do so. We cannot now require any kind of noise assessment up front with this application because the car wash is not currently operational and so it cannot be monitored.

The neighbour did not raise any kind of nuisance complaint during the two years while the car wash was operational, but that is not conclusive given that he knew the use had a temporary permission, and he may simply have wanted to avoid any frustration in those regards. Similarly, it seems rather inevitable that when consulted on this application he would object and say that the fence had little effect. In these regards the neighbour provides only subjective evidence to which we can attach limited weight.

What is required here is an objective assessment with evidence relative to actual impacts with the fence in place, compared to those impacts that were previously recorded by Environmental Health Officers before the fence was erected.

With this application there is opportunity to grant a further permission for a use that must cease after 12months unless the applicant can within that time demonstrate with evidence and some form of noise assessment that the fence has adequately reduced noise breakout. If the applicant can demonstrate that the fence is effective in these regards, a condition can be worded accordingly so that he would not then need to make separate or additional application to continue with the use.

Other Considerations
The neighbour does also complain about pollution from running engines and spray on his windows, however, he does live next door to a petrol filling station where there could be cars queuing to access the pumps in equal number, and current boundary conditions include the fence and a high hedge which must limit the impacts of any blown spray.

Drainage
The application has been supported with a letter from Severn Trent Water which consents to the discharge of water to the public sewer. This consent has been issued subject to condition, which are the responsibility of Severn Trent Water.

CONCLUSION / PLANNING BALANCE
A conditional permission should be granted requiring the applicant to submit evidence and assessment, once the use has commenced, relating to the fences affects on noise levels and breakout. If the Council is satisfied that such evidence demonstrates that the fence and other mitigations do achieve appropriate reduction, then the use could continue in perpetuity. However, if no such evidence is submitted or the Council is not satisfied with the effects of mitigation, then the use shall cease 12months after it commences.

This approach has been discussed with Environmental Health Officers and it is acceptable to them, conditions and decision notice has been drafted accordingly.

OFFICER RECOMMENDATION:
APPROVE
Case Officer: Ben Hurst
Recommendation Date:

X 

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council