
Case Number	21/04597/FUL (Formerly PP-10334275)
Application Type	Full Planning Application
Proposal	Application under section 73 to remove condition number 1. (temporary use) as imposed by planning permission 19/00674/FUL - Use of land as car sales forecourt and vehicle storage area (sui generis), including provision of portable building and container
Location	Land Between 264 And 270 And To Rear Of 270 Handsworth Road Sheffield S13 9BX
Date Received	25/10/2021
Team	City Centre and East
Applicant/Agent	Mr Ali Nasser
Recommendation	Refuse with Enforcement Action

Refuse for the following reason(s):

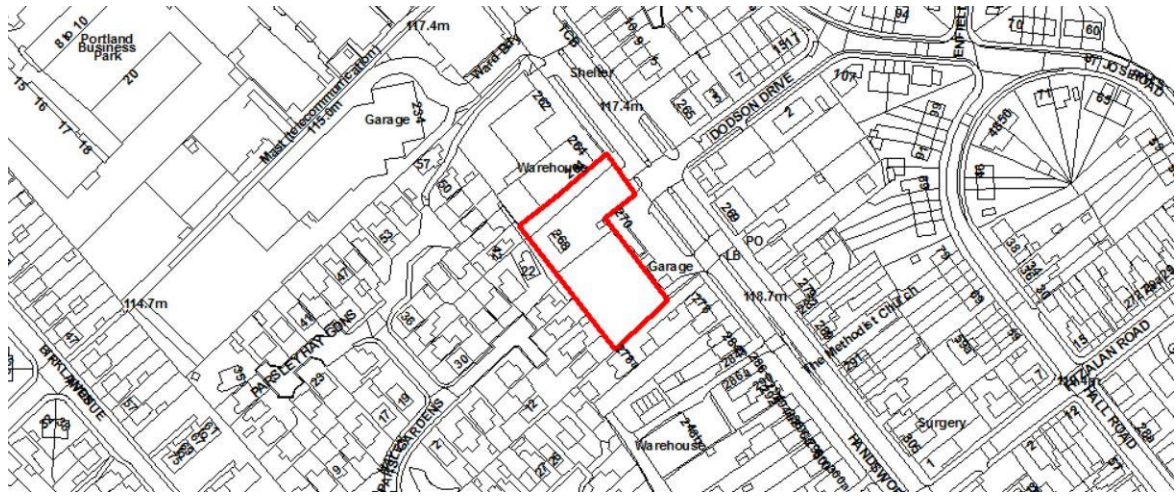
- 1 The Local Planning Authority considers that the proposed use of the site as a car sales forecourt and vehicle storage area would be detrimental to the living conditions of nearby residents of Parsley Hay Gardens, owing to the noise, general disturbance, and air pollution which would be generated by the continued use of the site as a car sales forecourt and vehicle storage area and due to the very close proximity and lack of separation to these residential properties. The proposal is therefore contrary to Policy IB9 of the Unitary Development Plan and paragraphs 130 f) and 185 of the National Planning Policy Framework (NPPF).

Attention is Drawn to the Following Directives:

1. The applicant is advised that this application has been refused for the reasons stated above and taking the following plans into account:
 - Drawing no. 001 (Site Location Plan, 1:1250) published 25.10.2021
 - Drawing no. 003 Rev B (Proposed Site Layout Plan) published 25.10.2021
 - Drawing labelled as 'Proposed Fence' published 27.01.2022
 - Information sheet labelled as 'Proposed fencing at Handsworth Road - Car Compound' published 27.01.2022

2. That the Planning Enforcement Team of Development Services be authorised to take any appropriate action including under Parts VII and VIII of the Town and Country Planning Act 1990 and instructing the Director of Legal and Governance to institute legal proceedings to secure the removal of vehicles, sales office building and store. The Local Planning Authority will be writing separately on this matter.

Site Location



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INTRODUCTION

This is a joint report for two planning applications (21/02655/FUL and 21/04597/FUL) which relate to an existing the car sales business, 'Motor Gurus', which is positioned on the west side of Handsworth Road, opposite the junction with Dodson Drive.

The site was most recently given temporary consent for two years and the applicant is seeking to continue using the site but on a permanent basis. Consent is also sought to continue opening on Sundays and Public Holidays.

LOCATION AND PROPOSAL

The application site lies within a Business Area, as defined in the Unitary Development Plan. The business has been operating for a number of years and planning permission was granted in February 2020 (refer 19/00674/FUL) for an expansion of the business premises onto adjacent land to the south-east; a permission which has been implemented. Planning permission was granted on a temporary 2 year basis, which is due to expire on 18 February 2022.

The car lot premises utilises the majority of the site for the display of motor vehicles, but also includes a portable sales building positioned towards the rear section of the site and a storage building to the east set behind an existing structure. A running lane extends through the site leading to 3 designated customer parking spaces. The site is served by an existing means of vehicular access from Handsworth Road, which is flanked by a low brick wall.

The site is enclosed by a variety of boundary treatments, including a metal mesh fence along the northern and eastern boundaries; a solid metal fence and existing trees/shrubs along the south-east boundary; and a mix of timber fencing along the rear, south-west boundary. There are self-set trees and newly planted shrubs near the rear boundary.

The site is bounded by Wilson's carpet warehouse to the north and a hand car wash business (no. 270) to the east, fronting immediately onto Handsworth Road, which is within the same ownership as the application site. On the opposite side of Handsworth Road are local businesses and residential properties and to the south-east and west (at the rear of the site) are residential properties sited at a lower level than the site.

Both applications seek a minor amendment, under Section 73, to vary conditions 1 (temporary use) and 14 (temporary opening on Sundays and Public Holidays) imposed on planning permission 19/00674/FUL to enable the use to operate permanently from the site and to also enable permanent opening on Sundays and Bank Holidays.

RELEVANT PLANNING HISTORY

11/01300/CHU – Continuation of use of existing car park as a car sales forecourt – Granted Conditionally for a period of 2 years - 16.06.2011. (This relates to the

smaller site between 264 and 270 and not the larger area of land behind 270 and was a 2 year temporary consent)

16/04353/FUL – Continuation of use of land as a car sales forecourt, use of part of the site for open storage and relocation of cabin – Withdrawn – 18.01.2017.

18/00266/FUL – Continuation of use of the site as a car sales forecourt, retention of portable sales building and siting of 4 floodlights – Granted Conditionally for a period of 12 months – 16.10.2018. (This relates to the smaller site between 264 and 270 and not the larger area of land behind 270)

Appeal ref: APP/J4423/W/18/3216340 – An Appeal was lodged by the applicant (landowner), disputing the imposition of 3 conditions relating to planning permission 18/0026/FUL which was granted for the continued use of the car sales forecourt for a temporary period of 12 months. The Inspector allowed the Appeal on the basis that 3 customer parking bays be provided and a running lane together will all other conditions originally imposed.

19/00674/FUL – Use of land as car sales forecourt and vehicle storage area (sui generis), including provision of portable building and container – GC 19.02.2020 (This was for the entire site between 264 and 270 and also the larger area of land behind 270)

19/00674/COND1 – Application to approve details in relation to condition nos. 3 (surface water drainage design) and no. 6 (hard and soft landscaping) – The details were not sufficient to be approved.

19/00674/COND2 – Application to approve details in relation to condition no. 6 (hard and soft landscaping) – The soft landscaping details are approved.

19/00674/COND3 – Application to approve details in relation to condition nos. 3 (surface water drainage design) and no. 7 (surfacing of vehicle storage area) – The details are approved.

Enforcement

Since the granting of planning permission 19/00674/FUL there have been complaints about the planning conditions not being complied with. A Temporary Stop Notice was served on 11 August 2020 in relation to the use of the adjacent land for the storage of vehicles. The vehicles were then removed from this parcel of land whilst the conditions were being discharged.

Currently, the works have been carried out, albeit not fully completed. Soft landscaping and drainage have been carried out, however hard-landscaping has not been fully completed as the applicant states that they have been let down by contractors, owing to Covid-19 related delays but the applicant is trying to resolve the problem and is liaising with Council Officers.

In the event that these applications are rejected, the Local Planning Authority seeks authorisation to take any appropriate enforcement action to cease the use of the land and remove all vehicles and associated buildings from the site.

SUMMARY OF REPRESENTATIONS

Following neighbour notification, a total of 6 representations have been received from local residents objecting to the proposals. Two Councillors (Mike Drabble and Dianne Hurst) have also objected to the proposals. The issues raised are summarised below:

Relating to 21/02655/FUL

- The business is adjacent to residential properties including home and garden
- The business still operates late evenings outside the permitted opening hours, whether selling vehicles are not, which still cause a disturbance including shouting and unsociable use of language
- Noise from activities can be heard in the property and in the garden
- To extend the opening hours on Sundays and Bank Holidays will have a bigger impact on existing residents
- Yet again up against our right for a peaceful and respected standard of living in what was once a lovely calm and peaceful community
- Hammering and banging from the car plot
- Can hear car sales and loud phone conversations taking place
- Mental health affected
- Can no longer enjoy my garden
- Handsworth Road and surrounding area is now just one big car park
- No progress with Highways Dept, Police, SCC and Councillors
- Will have a massive effect on our local community and well being
- It is very intimidating having to object and be exposed in a very public manner
- The destruction of old orchard and other trees, the total exposure of homes and privacy is totally unacceptable
- Have the right to speak out and hold onto some quality of life and privacy
- The premises has been a source of nuisance to local residents for some time, in particular noise and foul language preventing the enjoyment of their properties
- Given that they have not demonstrated a change in their behaviour, approving this application would simply increase the problems and impact on the life of local residents
- Query regarding wording of conditions
- Suggestion that noise is monitored, and a full acoustic report is submitted
- Comments relating to the adjacent hand car wash facility which does not form part of the application site

Comments from Councillor Drabble include:

- Local residents report that their quality of life has been seriously impacted by the activity on this site, specifically in terms of endless noise and disturbance and unable to have quiet enjoyment of their property.
- Previous restrictions have been constantly flouted.
- If the application is passed, it would represent a serious blow to these residents and their wish to live with dignity and would have little economic benefit for the surrounding area.

Comments from Councillor Hurst:

- My attention was first brought to this business at the planning meeting held in 2018 and following the decision at that meeting I met a number of neighbours and business in the area to listen to their objections to the operation of the site.
- Received over 70 emails complaining about the actions of this business, along with numerous pictures and video recordings.
- Since the application was approved, there have been enforcement cases, an appeal by the applicant, visits by Highways Network Management, joint visits by Police and Parking Services, and involvement by Environmental Protection Service in respect of noise nuisance.
- Had numerous complaints from neighbours regarding out of hours trading, trading during lockdown, parking of cars for sale on the highway and blocking pavements, thus preventing safe passage by parents with children in buggies and wheelchair users.
- I have logs and descriptions of shouting and swearing heard from resident's gardens.
- Residents have witnessed public urination of members of staff on the site.
- Residents can now longer feel able to sit outside and have quiet enjoyment of their own homes because of the intrusiveness of their business into their lives.
- The applicant has caused fences and trees to be removed to allow their operation to extend across the site as far as possible, without thought for the consequences for those living nearby.
- Because of change of levels, any activity on the site (lights of moving cars in winter months) impacts on garden and first floor level; there is no respite even in their bedrooms.
- Affecting health and wellbeing and inevitably sensitized to the actions of the business.
- Other surrounding businesses complain that their cars for sale and those used by employees are parked illegally on the highway, but also in customer parking, preventing their own business from thriving.
- Officers of the Council and other agencies have invested many hours in trying to change behaviours so that the residents and business can co-exist, but to no avail.
- I believe that the business has outgrown this site, it is overdeveloped.
- Allowing Sunday and Bank Holiday trading to continue will impose continued misery on those living around.

Relating to 21/04597/FUL

- The establishment is left to their own devices and nothing is enforced.
- It is making our lives a misery.
- Vehicle storage area is no different to the car sales section as customers are wandering all over to view vehicles.
- Vehicles included are commercial vans along with cars which are left running to charge the batteries for 1 1/2 hours at a time allowing fumes to enter homes and garden area and therefore have to keep windows and doors closed.
- This should never have been passed and now we are being told to contact various other services, i.e. highways/environmental health etc.
- Very little information submitted in the application.
- Applicant has not consulted the neighbours.
- Lack of consultation and therefore, no analysis of impact.
- Loss of privacy – difference in levels mean that rear gardens are overlooked.
- Type of vehicles being sold is expanding and larger vehicles will tower over any screen proposed.
- Customers waving to residents is unacceptable.
- Soft landscaping does not lessen the impact; planting has been removed providing clearer views through from the site to Parsley Hay Gardens; condition 6 not complied with.
- Clarification of site should be made as to whether car wash area is included in any proposal; vehicles have been observed parked on land designated to car wash.
- Comments relating to car wash facility, which does not form part of the application site.

PLANNING ASSESSMENT

In assessing this application, the main issues to consider are land use policy, effect on residential amenity and highway safety considerations.

Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) provides the framework for the planning policy and development within England. The overarching principle is to ensure that new development is sustainable.

The Council's development plan comprises the Core Strategy which was adopted in 2009 and provides the overall spatial strategy for the period of 2008 to 2026 and the saved policies of the Unitary Development Plan (UDP) which was adopted in 1998. Whilst the UDP pre-dates the NPPF, the policies should not be considered out-of-date and should be given due weight, according to their degree of consistency with the NPPF. The NPPF provides that the closer the policies in the

plan to the policies in the NPPF, the greater the weight that may be given (para. 219). The NPPG provides further guidance on this but it does state that it is up to the decision-maker to decide the weight to give to the policies.

In all cases, the assessment of any development needs to be considered in light of paragraph 11 of the NPPF, which provides that when making decisions, a presumption in favour of sustainable development should be applied, and that where there are no relevant development plan policies, or where the policies which are most important for determining the application are out of date (e.g. because they are inconsistent with the NPPF), planning permission should be granted (the tilted balance) unless there are particular areas or assets of particular importance, which provide a clear reason for refusal (e.g. Green Belt, risk of flooding, certain heritage assets); or any adverse impact of granting permission would significantly and demonstrably outweigh the benefits of the development.

Set against this context, the development proposed is assessed against all relevant policies in the development plan and the NPPF below.

Land Use Policy

The site lies within a designated Business Area, as defined in the Unitary Development Plan. UDP Policy IB7 permits a variety of uses within such areas, but in this case, a car sales use is defined as a 'Sui Generis Use' and therefore should be considered on its own merits, although it is clearly a commercial business use. The existing car sales premises has been continuously used for such purposes for a number of years and the last planning permission (refer 19/00674/FUL) was granted 18th February 2020, for a temporary period of 2 years. The temporary consent was issued on the basis that there were long-term aspirations for comprehensively developing the wider site and an ongoing car sales lot was not a desired long-term use.

This application seeks to continue using the existing car sales premises including the vehicle storage area. The principle of allowing a car sales use in this location has already been established, by virtue of the existing planning permissions. In deciding the last application the continued use of land for the sale and display of cars was considered acceptable, although only on a temporary basis, given the long term aspirations for the wider site and due to amenity concerns. In considering the use of the additional vehicle storage area it was considered to fall within the same 'Sui Generis' use classification. As the site was set back behind an existing car wash facility, accessible via an existing car sales site and utilising the land for this purpose it was considered to be logical and not an unreasonable request. The principle of allowing the additional storage area was considered acceptable on a temporary basis to allow the impact of the operational business to be properly understood over that time period.

The application has previously been assessed in terms of UDP Policy IB9 'Conditions on development in Industry and Business Areas' in respect of its use, which was considered acceptable on the basis that it would not result in a significant change to the percentage of preferred uses in the area and therefore not prejudice the dominance of preferred uses in the area. However, the application

does need to be considered in respect of other provisions of the Policy, specifically part (b) which relates to residential amenity and part (f) which relates to transport issues; both of which are considered later in the report. The Policy is consistent with paragraph 11 of the NPPF in that it is necessary to plan positively to meet development needs and paragraph 119 which requires policies and decisions to promote an effective use of land in meeting the needs for homes and other uses.

In considering the current application, there have been no further policy changes which should be taken into account when assessing this application. It is proposed that the site would operate in the same manner with no changes indicated. The applicant is seeking to remove the temporary restriction, therefore with the intention to continue using the site as a car sales lot with additional vehicle storage on a permanent basis. Part of the site has operated as a car sales lot as far back as 2011, although this has not been a continuous use over that time period.

In assessing the planning application 21/02497/FUL which seeks to permanently use the site it is relevant to consider the guidance set out in paragraphs 55 and 56 of the NPPF, which relates to the use of planning conditions. Paragraph 55 advises local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 requires planning conditions to be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.

Circular 11/95 sets out the guidance in relation to the use of planning conditions and, particular to this application, the use of temporary permissions. Paragraph 109 does permit the use of temporary permissions but the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenities of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard the amenities. Where it is not possible to devise such conditions, and if the damage to amenity cannot be mitigated, then the only course open is to refuse permission. These considerations will mean that a temporary permission will normally only be appropriate, as in this case, when a trial run is needed in order to assess the actual effect of the development on the area.

Paragraph 112 of the Circular provides that a further temporary permission should not normally be granted and that during a trial period it should be clear whether permanent permission or a refusal is the right outcome. Usually, a second temporary permission will only be justified where highway or redevelopment proposal have been postponed. Temporary consents have been issued on the basis that the site would, in the future, be comprehensively redeveloped and, to address amenity concerns. At present there are no plans to redevelop the site but rather a desire of the applicant to continue using the site as in situ. In light of the above, and the fact that the site has had a lengthy trial period to allow potential redevelopment opportunities and to assess the impact on amenity it is now considered necessary to decide whether to grant a permanent permission or to refuse planning permission.

The development does provide a source of employment, approximately 7 members of staff. Should the proposal not be acceptable, the resultant economic loss and impact on the livelihood of staff will need to be considered. The NPPF, in paragraph 80 requires that planning policies and decisions should help create the conditions in which business can invest, expand and adapt; and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In this case, it will be necessary to weigh the benefits of the development against the impact of the development on residential amenity.

Amenity Issues

UDP Policy IB9 permits new development or changes of use provided that it will not cause residents or visitors in any hotel, hostel, residential institution or housing to suffer from unacceptable living conditions.

This is consistent with NPPF, paragraph 130 f) which states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 185 of the NPPF is also relevant and states that “decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site of the wider area to impacts that could arise from the development.”

The site is set within a predominantly commercial environment on this stretch of Handsworth Road, however, there are residential properties immediately at the rear of the site (Parsley Hay Gardens) which are at a lower level and have short gardens abutting the site. A number of objections and concerns have been raised by the residents of these houses over a number of years and as a result of the direct neighbour notification.

Noise

The proposal seeks to continue using the site for the sale and display of cars, with ancillary vehicle storage. The use generates noise, owing to customers visiting the premises; the movement and cleaning of vehicles, whether it is those which are on display or customer vehicles entering and leaving the site. The background noise levels on Handsworth Road (a dual carriageway) are relatively high owing to traffic and also noise from a hand car wash facility which is adjacent to the site and fronts directly onto Handsworth Road.

Since approximately 2018 there have been consistent complaints received from local residents in respect of noise and activities taking place on the site; and concern that planning conditions previously imposed were not being complied with, for example in respect of customer parking, hours and days of use, drainage, and landscaping. Appropriate enforcement actions have been carried out to address the planning conditions and advice was given by Council Officers to the applicant and landowner to address outstanding issues. Temporary planning permissions have been issued to allow monitoring of the site to see if the problems persist.

In respect of the current planning applications, concerns have been raised by residents with regard to noise, amongst other issues, and in particular the movement of vehicles, car engines left running, car alarms sounding off, shouting, and talking, including inappropriate language.

At the rear of the site are residential properties (Parsley Hay Gardens) which have very short rear gardens and are set down below the application site, such that their first-floor windows face directly onto the application site. Vehicles for sale take up the majority of the site, with the nearest vehicles being set back only 3 metres from the common boundary with the Parsley Hay Gardens rear curtilages. There is a mix of boundary treatments along this boundary with fencing of varied heights, and trees/shrubs. Trees and shrubs have been planted adjacent to the boundary and it is anticipated that this would develop over time and improve the screening of the site. However, at this present time it is acknowledged that the planting is not yet of sufficient size to fully screen the site. It is understood that the applicant or landowner removed some mature vegetation from this boundary which has further exposed the commercial activities of the site to the houses behind.

The applicant maintains that the proposed use of the site does not generate significant noise and disturbance. They state that the business operates an appointment system for customers to come and visit the premises having viewed the vehicles online. They state that the vehicle is then relocated within the site in preparation for the customer to view it and potentially to take it for a test drive. The applicant has stated that 90% of enquiries are generated from online enquiries, with appointments made to view the vehicle for sale; and 10% is from 'walk-on' enquiries.

During the week there are 3 sales people operating on the site with up to 3 additional yard staff, thereby dealing with a maximum of 3 customers at any given time. However, on a Sunday there would be only one sales person and yard staff employee, thus, only one customer dealt with, by appointment at any given time. Given that an appointment system is in operation and if for example a typical day would generate 6 sales, this would suggest potentially 6 vehicles moved during the day, with any subsequent movement of vehicles elsewhere within the site to accommodate the relocation.

There is a sales office building which is set away approx. 3 metres from the common boundary with no. 22 Parsley Hay Gardens. The building is occupied by employees and there are visiting members of the public entering and leaving the building.

There will inevitably be some noise and activity generated by customers visiting the site, with discussions taking place inside the sales office building and outside on the forecourt. It is these discussions as well as employee voices at other times together with vehicle movement and car engines that are disturbing the residents of Parsley Hay Gardens. Whilst the noises individually may not be significant owing to the relatively high background noise levels, it is the combination of the different noise sources and regularity at which they occur that is of concern and

they take place in very close proximity to the residents of Parsley Hay Gardens and their rear curtilages because there is no buffer strip between the two uses.

Leaving car engines running for a lengthy period can be noisy and creates an unpleasant environment from car exhaust fumes. If this occurs on a regular basis, near to a residential property or its curtilage it would result in harm to the living conditions of the resident of the property affected. It is unclear as to how often this occurs and there is no way of controlling this so it has been taken into consideration as part of the overall assessment of the applications.

To help mitigate noise from the site, the applicant proposes to erect a fence on top of the bund which extends along the south-west (although it would need to extend further to the north up to the sales office building, past the rear of no. 20), wrapping around the southern corner and partially along the south-east. The fence would be a close boarded timber fence measuring 1.5 metres high, which would create an overall 2 metres high screen around the vehicle storage area. The fence would help screen the site from a visual point of view, reduce noise levels and would ensure no overlooking would occur onto adjacent residential properties.

It is relevant to note that the Environmental Protection Service (EPS) has reviewed the information submitted for the applications and has no objections to the proposals. The EPS has confirmed that there have been two formal complaints of noise to their service (excessive construction hours and anti-social behaviour) via Councillor D Hurst on behalf of her constituents in 2021. During the investigations, the complainants were not forthcoming, and proactive advice in respect of noise control was offered to the site management of Motor Gurus. No enforcement action was taken and no other formal complaints have been lodged with EPS but there continue to be complaints lodged to local councillors and the local MP, suggesting that there is an ongoing problem.

Hours of Use

In February 2020, planning permission (19/00674/FUL) was granted for a period of two years, to allow the continued use of the car sales business and the vehicle storage area between the hours of 0800 and 1800 hours, Mondays to Saturdays; and between 1000 hours and 1600 hours, Sundays and Public Holidays for a temporary period of one year. This was as a result of concerns raised by residents of the premises operating beyond the permitted hours and to allow the opportunity to further monitor the site and record any noise nuisance and non-compliance of planning conditions. In coming to this decision, the need to balance the needs of the business and the amenity of the adjacent residents were considered.

The applicant is seeking to continue using the site and, for the same hours and days of use, but on a permanent basis. Letters of objection have been raised from local residents who have stated that the premises have been in use late into the evening, beyond the permitted opening hours, with noise generated as a result of vehicular movements, car engines left running and people chatting and shouting. The permitted hours of use, Mondays to Saturdays are not considered to be restrictive and are consistent with other local business premises. Given that the residents of Parsley Hay Gardens are particularly vulnerable, as they have short

rear gardens it is particularly important to control the development to ensure that the development does not have a detrimental impact on their living conditions.

Given the objections from residents and Councillors there is clearly a considerable concern about the use of the site, with the emphasis being the impact on the nearest affected neighbours, who are being consistently affected. Although only 2 complaints have been reported to the EPS there is substantial opposition to the continued use of the site, which is reported to be not operating within the hours permitted and multiple complaints have been received by local councillors.

Amenity Conclusion

Having considered all the issues it is considered that, on balance, the continued use of the full extent of the site for car sales and storage is not acceptable in amenity terms. The Parsley Hay houses have particularly short rear gardens which face directly onto the site, with no real separation or environmental buffer between the residential and commercial use, and therefore a resulting unsatisfactory environment for the existing residents. The residents cannot enjoy their private amenity space owing to noise and disturbance as a result of the activities taking place on the site and whilst mitigation measures (a fence) have been proposed, it is unlikely that this would fully address the problem in the long term.

It is on this basis that the proposal is not considered acceptable as the benefits of continuing to use of the business do not outweigh the harm caused to existing residents. As such, the proposal does not meet the requirements of UDP Policy IB9 and paragraphs 130 f) and 185 of the NPPF.

Highway Issues

UDP Policy IB9 states that a site should be adequately served by transport facilities and should provide safe access to the highway network and appropriate off-street parking. This is consistent with paragraph 110 of the NPPF which requires safe and suitable access to the site and for any highway safety issues to be mitigated. It does on to state in paragraph 111, that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

The current layout of the site was agreed as part of the previous planning permission. The layout of the site is considered to be satisfactory, allowing the movement of vehicles within the site and provides customer parking as required. The running lane within the site has not been tarmacked to date with the applicant stating that this is as a result of contractor delays although they have stated that they are trying to address this.

Concerns have been raised by objectors in relation to the display of vehicles for sale on the public highway. The extent of the site has been increased, therefore allowing more vehicles to be stored on the site. The applicant has stated that all vehicles are parked on the site. In any event, should any vehicle be parked on the highway, this would be a matter which is enforced by the Police and the DVLA. It

is also relevant to note that it is an offence to park vehicles for sale on the highway under Section 3 of the Clean Neighbourhoods and Environment Act, 2005.

Objector comments also refer to vehicles being parked along the Handsworth Road frontage, blocking the footway, making it difficult for pedestrians to walk past, especially those in wheelchairs or with buggies. It is unclear as to whether any or all of these vehicles relate to the application site, as it is evident that employees of neighbouring uses and visitors to other business premises do park along the Handsworth frontage. Any traffic related offences would be for Parking Services and the Police to deal with and these issues have been referred to them in the past to deal with.

On this basis, it is not considered that the proposal would have a detrimental impact in highway terms and as such will accord with the local development plan and the NPPF.

RESPONSE TO REPRESENTATIONS

The use of inappropriate language and the behaviour of customers are not specifically planning issues, although they do add to the argument that the living conditions of residents are adversely affected due to the activities taking place on the site

Cars parked on designated car wash site – Vehicles for sale at the premises are valeted at the adjacent car wash site before being sold.

Lack of consultation from applicant – This is not a statutory requirement of the applicant given the scale of development but the applicant is encouraged to liaise with occupants of adjacent properties.

Little information submitted – Satisfactory information has been submitted in support of the application to enable an appropriate assessment.

Wording of conditions – The original conditions were appropriately worded to control the development.

Monitoring/Acoustic Report – This was not considered to be a requirement to enable an assessment of the application.

Clarification of application site – The application site relates to land within the red line boundary and any land owned or controlled by the applicant is outlined in blue (the car wash site in this case).

SUMMARY AND RECOMMENDATION

In land use terms, the use of the site for car sales and storage of vehicles is considered acceptable in principle in this commercial location, however this is subject to maintaining a satisfactory living environment for existing residents.

Temporary planning permission has been granted previously for the site, as it was anticipated that the site would be comprehensively redeveloped at some future point. Owing to amenity concerns, it was also considered appropriate to grant permission for a temporary period in order to monitor the site. Given the objections received which highlight issues relating to noise, nuisance, and non-compliance with opening hours, it is evident that the use of the premises is having a detrimental impact on the existing residents of Parsley Hay Gardens. The imposition of planning conditions has not been effective to control the use of the site and prevent harm to the existing residents. This is in large part due to the lack of separation and the lack of any kind of significant buffer between the use and residential gardens, together with the level differences between the two.

The continued use of the site does not raise significant highway concerns, provided that the layout of the site is maintained in accordance with the approved plans.

In conclusion, the proposed permanent use of the site as a car sales area with ancillary vehicle storage is not considered acceptable. By virtue of this fact the permanent hours of opening on Sundays and Public Holidays would also not be permitted.

For the reasons outlined in the report, it is considered that the proposal would not comply with UDP Policies IB7 and IB9 and paragraphs 130 f) and 185 of the NPPF.

On this basis, planning applications 21/02655/FUL and 21/04597/FUL are both recommended for refusal with authorisation to take any appropriate enforcement action to secure the cessation of the use and remove all vehicles and associated buildings from the site.