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Application No: Y19/0653/FH

Location of Site: Ordnance Garage, Military Road, Hythe, Kent CT21 5DD

Development: Installation of 2 No. jet washes together with associated works including screens and anti-ram bollards.

Applicant: Motor Fuel Group

Agent: Mr Graham Adcock of Adcock Associates

Officer Contact: Emma Hawthorne

SUMMARY

This report considers whether planning permission for the installation of 2 no. jet washes together with associated works including screens and anti-ram bollards should be granted. The report assesses the addition of 2 no. jet washes and associated works in this locality, and given the site is currently in use as a filling station and car washes, the proposal would therefore be in keeping with the use and character of the site. All remaining issues pertaining to residential amenity, drainage and highway safety are considered acceptable.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee because Hythe Town Council object to the proposal.

2. SITE AND SURROUNDINGS

2.1. The application site is operated as a filling station, with an open forecourt between a row of cottages, 3-17 Military Road (grade II listed buildings) to the west, the modern development, Findlay Court to the east and the rear of properties in Bartholomew Street to the north. The site includes a single storey forecourt shop with linked canopy above the filling station pumps, and car wash to the north of the shop.

2.2. The application site is within the settlement boundary of Hythe and an area of archaeological potential. The site borders the Hythe High Street and Vicinity Conservation Area to the south and west, however the site does not fall within the Conservation Area. The Royal Military Canal, a scheduled ancient monument is located on the opposite/ southern side of Military Road.

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- 2.3. The application site is partly within Classes B, C and D of the landslip area, with the highest risk (Class D) identifying that slope instability problems are probably present or have occurred on the past, and that land use should consider specifically the stability of the site.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Full planning permission is sought for the installation of 2 No. jet washes together with associated works, which include glazed screens, anti-ram bollards, low-level LED lights and new concrete slabs with slit traps.
- 3.2 The proposal would compromise the installation of 3.0 metre high glazed side and corner screens and a new 1.8 metre solid rear screen, with 2 No. jet wash machines located centrally.

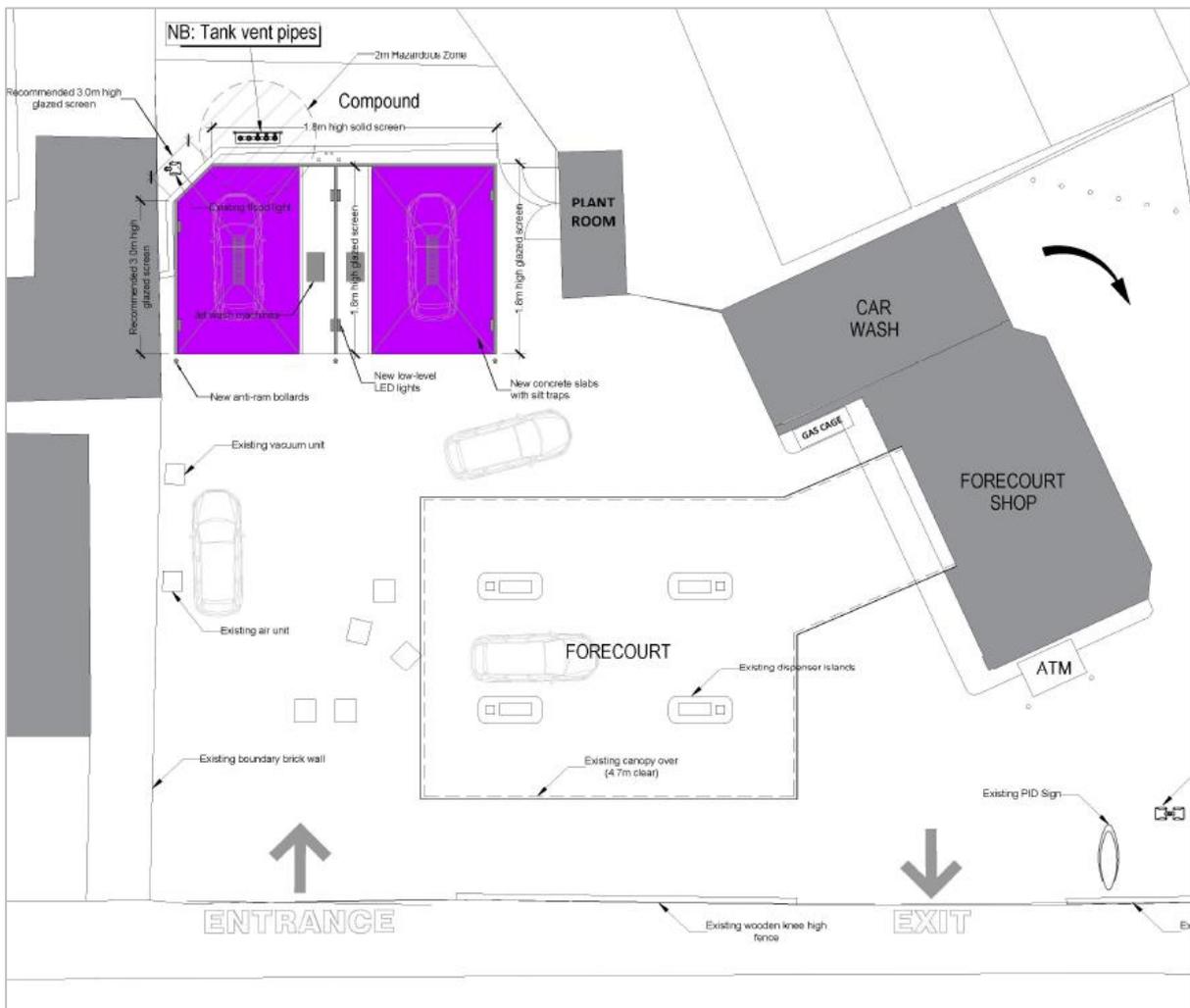


Figure 1: Proposed site layout

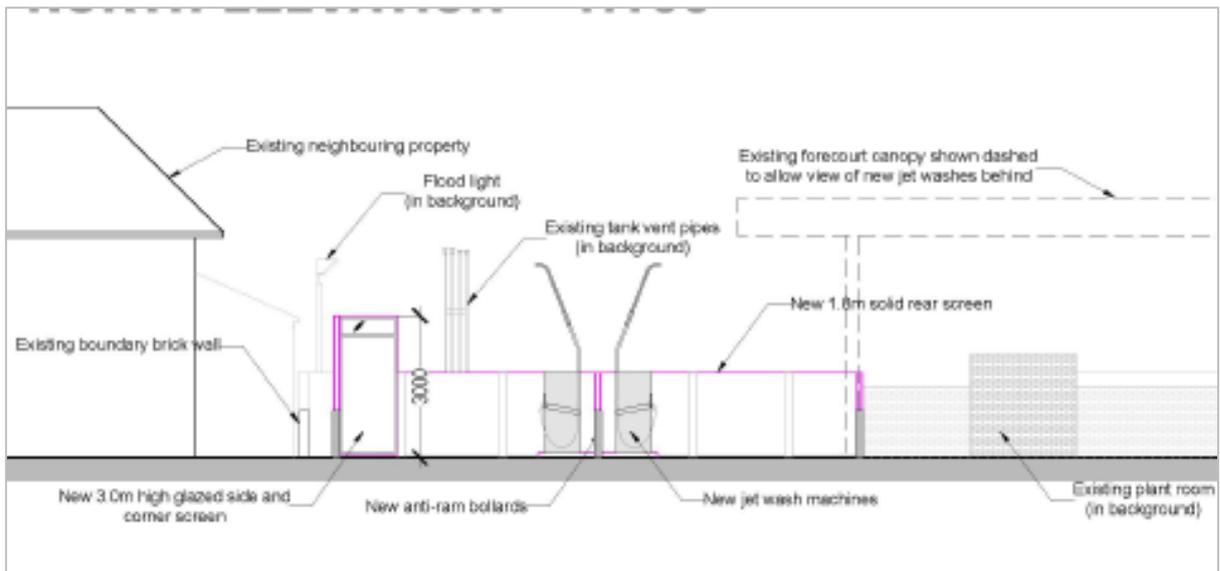


Figure 2: Proposed North elevation

- 3.3 Revised drawings have been submitted during the lifetime of the application to illustrate the proposed drainage within the site and to address concerns raised by Hythe Town Council (as set out below).
- 3.4 In addition to relevant plans and drawings, the following report was submitted by the applicant in support of the proposal:
- Noise Impact Assessment.
- 3.5 The Noise Impact Assessment was submitted to highlight any potential noise problems and the suitability of the application, and also proposed suitable mitigation measures where appropriate. The report recommends that a 2.0 metre high screen is installed to surround the jet wash bays to provide a noise barrier to the nearest residences. With the recommended design, the report concludes that the rating level of the new jet wash bays will be below the background sound level at the nearest proposed noise-sensitive premises during the proposed hours of use (08:00 to 18:00). It is also predicted that noise levels at the nearest residences are also within the recommended limits for outdoor noise stated in BS 8233: 2014 and the World Health Organisation Guidelines for Community Noise (1999).

4. RELEVANT PLANNING HISTORY

4.1 The most recent and relevant planning history for the site is as follows:

Y17/1617/SH	Erection of enlarged replacement forecourt shop following demolition of existing shop, relocation of ATM, insertion of bollards, floodlight and erection of bin store, together with associated parking.	Refused
Y16/0964/SH	Alterations to filling station forecourt canopy to provide increase in height.	Approved
Y08/0513/SH	Display of 2 internally illuminated single sided free standing advertisement panels.	Refused

Y02/0036/SH Continued display of internally illuminated fascia and monolith signs and non-illuminated poster, wall mounted and free standing directional signs. Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council - Object on the grounds of noise, disturbance to residents, increased traffic and concerns regarding the dispersal of waste water.

Environmental Health – No objection subject to a condition requiring a 2.0m screen to be erected to surround the jet wash bays to provide a noise barrier.

KCC Highways & Transportation – The proposal does not meet the criteria to warrant involvement of the Highway Authority.

Archaeological Officer – No archaeological measures are required in this instance.

KCC Lead Local Flood Authority – No comments to make.

Environment Agency – No objection, provided all drainage is directed to the existing foul drainage setup as detailed.

IDOM – No objection as the drainage from the new jet wash will go to existing foul sewer.

Local Residents Comments

5.2 Five neighbours were directly consulted. Three letters of objection, no letters of support received and no letters of comment have been received.

5.3 The objections made can be summarised as follows;

- Noise impacts of additional car wash units
- Concerns regarding where the water will come from
- Increase of water pressure through existing water pipes could damage property
- Installation of 1.8m screen would obstruct view from gardens.

Ward Member

5.4 No response.

5.5 Consultee responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020).
- 6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 6.3 The relevant development plan policies are as follows:-

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development
SS1 – District Spatial Strategy

Places and Policies Local Plan (2020) (PPLP)

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

HB1 – Quality Places through Design
E2 – Existing Employment Sites
RL1 – Retail Hierarchy
T1 – Street Hierarchy and Site Layout
T2 – Parking Standards
NE6 – Land Stability
CC3 – Sustainable Drainage Systems (SuDS)
NE5 – Light Pollution and External Illumination
HE1 – Heritage Assets
HE2 – Archaeology

Core Strategy Review Submission draft (February 2019)

The requirements of the following policies in the emerging Core Strategy are similar to what is set out within the adopted Core Strategy.

SS1 – District Spatial Strategy
SS2 - Housing and the Economy Growth Strategy

- 6.4 The following are also material considerations to the determination of this application.

Supplementary Planning Guidance/Documents

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.5 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 8 – Three main strands of sustainable development: economic, social, and environmental

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans

Paragraph 127 -130 – Achieving well designed places

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'.*

7. APPRAISAL

- 7.1 In light of the above the main issues for consideration are:

- a) Principle of development
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Drainage
- e) Highway safety
- f) Other Matters

a) Principle of development

- 7.2 The proposal is considered to be acceptable in principle, as the site is currently in use as a garage, and includes an existing car wash facility. Therefore the proposed works to install an additional 2 no. jet washers towards the rear boundary of the site would be characteristic of this type of facility and in keeping with the current use of the site, subject to all other planning considerations.

b) Design and visual impact

- 7.3 The proposal seeks to install 2 No. jet washers towards the rear boundary of the site, beside an existing plant room. The proposal would comprise of 2 No. jet washes positioned adjacent to each other, centrally within the vehicle washing area. This would be surrounded by 1.8 - 3 metre high glazed screens, and new anti-ram bollards would be installed along with low-level LED lights.
- 7.4 The proposed jet washers and associated works, as described above, would be subservient to the existing built form on the site. It is noted that the proposal would be visible from the street scene of Military Road, however the site is currently in use as a filling station and given the siting of the proposal towards the rear boundary of the site, away from the street scene it is not considered that the works would appear incongruous or out of keeping. In addition, it is noted that the small scale nature of the proposed jet washes and screening, in comparison to the canopy and forecourt shop in closer proximity to Military Road, would not be prominent in views from the street scene and the neighbouring Conservation Area. It is considered that this arrangement would not result in an unacceptably detrimental visual impact on the appearance of the site when viewed from the public realm.
- 7.5 Due to the relative location of neighbouring listed buildings and given the presence and relative scale of the existing building, it is considered that the proposal would not bear any discernible impact on the setting or appreciation of the listed buildings.
- 7.6 In light of the above, the proposal is considered to be acceptable with regard to design and visual impact on the character and appearance of the site, the surrounding area, the neighbouring Conservation Area, and the setting of neighbouring listed buildings. The proposal is considered to accord with policies HB1 and HB2 of the Places and Policies Local Plan, and section 12 of the NPPF.

c) Residential amenity

- 7.7 Local Plan Policy HB1 states development should not lead to an adverse impact on the amenity neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.

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- 7.8 With regard to overshadowing, overbearing and dominance impacts, it is considered that the proposal would not impact neighbouring residential properties, 17-21 Findlay Court, nor 3-17 Military Road as the proposal would protrude towards the site's north western boundary which constitutes the rear boundary of the neighbouring properties 27-31 Bartholomew Street. As referenced above, the glazed screens would stand at a maximum height of 3.0 metres and therefore are considered to be low in overall height, Further to this, given they are proposed to be glazed screens they would not have harmful impacts to neighbouring amenity adjacent to the boundary with the proposal (27-31 Bartholomew Street).
- 7.9 Given the low and subservient scale of the proposal, relative to the existing main building, and the retained separation, the proposal is not considered to result in any additional overshadowing, loss of light or overlooking impacts to neighbouring properties.
- 7.10 In relation to increased noise and disturbance, the comments from neighbouring residents are noted. The site is currently in use as a filling station, with shop and drive through car wash. Therefore the additional impact from noise and disturbance from 2no. additional jet washers is unlikely to be significant during operational hours of the filling station. A 1.8 metre and 3.0 metre high screen are also proposed to be erected to surround the jet wash bays to provide a noise barrier, mitigating against any potential increase in noise above and beyond the existing operations on site. Environmental Health have been consulted on the proposal, and have no objection to the works subject to the glazed screens being of solid construction with no air gaps. This could be secured by way of a planning condition in the event of an approval and would be sufficient to mitigate any harmful noise impacts from the proposed development. No other noise mitigation measures have been requested by Environmental Health. It is acknowledged that the proposed jet washers would be in closer proximity to some residential properties than those currently installed within the site, however given the conclusion of the submitted Noise Impact Assessment and proposed mitigation measures (glazed screens) the proposal is considered to be, on balance, acceptable.
- 7.11 With regards to lighting, the proposal seeks to install 8no. low-level LED lights. These would be positioned internally on the proposed glazed screens surrounding the jet washers. Local Plan policy NE5 states that development included significant external lighting should not materially alter light levels outside the development site, and the proposal should not adversely affect the use or enjoyment of nearby buildings or open spaces. Given the existing use of the site as a garage, with external lighting, the proposed low-level LED lights are not considered to materially alter light levels outside of the development or negatively impact neighbouring residential uses. To ensure that the lights are only light when the jet washers are in use, it is considered reasonable and necessary to add a condition to any permission granted controlling their hours of use.

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7.12 As such, the proposal is not considered to result in any significant harm to neighbouring amenity. To ensure the jet washers are not in operation outside of the filling station opening hours, it is considered to be necessary and reasonable to add a planning condition to any forthcoming planning permission to control operating times to day time hours only, and therefore would be useable between 08.00 and 18.00 hours. These reflect the hours recommended within the Noise Impact Assessment and also limits the use to 'day time' hours, which is considered reasonable and assists in mitigating against any impact on neighbouring amenity. Further to this, noise and operating levels can be controlled by a condition requiring the noise mitigation measures to be installed and maintained on site prior to first operation of the jet washers, in order to ensure noise outputs are not detrimental to nearby properties.

7.13 In consideration of the above therefore, the proposal would accord with Local Plan Policy HB1 and paragraph 127 of the NPPF which require that consideration be given to residential amenity.

d) Drainage

7.14 Additional information was requested from the applicant to provide details of how the drainage would work to avoid any off site run off. The proposed concrete bays to the jet washes are proposed to be laid to fall to a central collection pit, which is a silt trap. Whilst there can be some immediate overspray in very windy conditions the majority of water spray is contained by the 3.0m high screens and drops onto the dished concrete bay. In consequence it is considered that there would be little or no excess discharge into the site as a result of the proposal. Nonetheless, the whole of the site has impervious concrete surface finish which drains surface water to gullies. The two access ways from Military Road, being the site entrance and exit pavement crossovers have full length slot drainage channels and gully that would avoid any off site run off. These existing and proposed measures of containment are illustrated on revised plans submitted in support of the proposal.

7.15 The Environment Agency and the Council's Contamination Consultants have no objection to the proposed works, as all drainage is directed into the existing fowl sewer setup and this is considered an acceptable approach.

7.16 The comments from Hythe Town Council and neighbours are noted, however given the above, the proposal is not considered to create additional site run off or drainage issues within the area.

e) Parking and highways

7.17 Para 109 of the NPPF states, "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*"

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- 7.18 The proposal utilises the existing road network and arrangements within the site will remain unchanged. There may be a possibility of queuing at busy times, but this is unlikely to be a feature of the use of the proposed jet washes at all times and the forecourt can reasonably hold four to five cars in a line at any one time. There is also space within the site to keep traffic routes free within the site. It is highly unlikely that queuing will spread onto the public highway network and consequently it is considered that there would be no detrimental impact upon highway safety, or any significant impact to the amenity of other site users.
- 7.19 With regards to parking capacity within the site, the requirements and arrangements in relation to goods and services would remain unchanged.
- 7.20 Overall, the proposal is not considered to have an unacceptable impact on highway safety and as such is considered acceptable in this regard.

f) Other Matters

- 7.21 As referenced above, the application site is partly within Classes B, C and D of the landslip area, with the highest risk (Class D) identifying that slope instability problems are probably present or have occurred in the past, and that land use should consider specifically the stability of the site. Normally any planning permission would be subject to a planning condition to ensure that the excavation and construction of foundations does not result in any issues of landslip risk for the application site or the surrounding area. However, given the nature of the works proposed under this application, a land stability condition is not considered to be reasonable or necessary. The agent has submitted a typical construction drawing to show excavations would be very limited for this type of proposal. Therefore, the proposal is considered to be acceptable in this regard and a condition is not required.
- 7.22 It is noted that the site falls within an area of archaeological potential (AAP), however, the area of the site within the AAAO is located south of the proposed works. As such, it is considered that the proposal could proceed without any further controls to safeguard remains of archaeological potential and is acceptable in this regard.

Environmental Impact Assessment

- 7.23 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.24 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or

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other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

7.25 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge as it would not create a net additional 'gross internal area' of 100 square metres or more.

Human Rights

7.26 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

7.27 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.28 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 In light of the above, it is considered that the proposal complies with the development plan policies and the NPPF, and therefore is recommended for approval subject to conditions.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The development must be begun within three years of the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans;
 - Block Plan – drg no. PA01
 - Existing Site Layout – drg no. PA02A
 - Existing Elevations – drg no. PA03
 - Proposed Site Layout – drg no. PA04A
 - Proposed Elevations – drg no. PA05
 - Standard Jet wash Installation – drg STO1
 - Noise Impact Assessment, report no. P19-616-R01 dated January 2020
 - Compact Jet Wash User Guide
 - Jet Wash Solutions NjoyPack, dated May 2019

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Development Plan.

3. The development hereby approved shall be carried out in complete accordance with the details of materials as specified in the application, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate appearance of the completed development and in the interests of visual amenity.

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4. The recommendations set out within section 5 of the hereby approved Noise Impact Assessment, report no. P19-616-R01 (dated January 2020) shall be undertaken and installed prior to the first use of the jet washers. Notwithstanding the approved drawings, this shall include at least a 2.0 metre high surround to the jet wash bays to provide a noise barrier. The screens must be of solid construction with no air gaps. The screens are to be located in the area recommended with in Figure 1 – site plan of the said report. The screens shall be retain as such thereafter.

Reason: In the interests of protecting the amenities of the nearest residences.

5. The permitted use of the jets sprays and LED lighting shall only operate between the hours 08.00hrs and 18.00hrs Monday to Sunday.

Reason: Protect the amenities of the nearest residences.

Informatives:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

2. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations.

Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively another building control body may be able to assist.