



**REPORT of  
CHIEF EXECUTIVE**

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to  
**COUNCIL**  
13 July 2017

<b>Application Number</b>	<b>FUL/MAL/16/01252</b>
<b>Location</b>	Mobile Car Wash In Car Park Blackwater Leisure Centre Park Drive Maldon Essex
<b>Proposal</b>	Retrospective - Change of use of 3No. parking bays for use as mobile car wash
<b>Applicant</b>	Mr Mark Taylor - Places For People Leisure Ltd
<b>Agent</b>	-
<b>Target Decision Date</b>	06.06.2017
<b>Case Officer</b>	Spyros Mouratidis, TEL: 01621 875841
<b>Parish</b>	<b>MALDON EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Council Owned Land

1. **UPDATE AND RECOMMENDATION**

This application is for determination by the Council. The Central Area Planning Committee on 31 May 2017 agreed to support the Officer recommendation of **REFUSAL** for the reasons as detailed in Section 8 of this report.

2. **SITE MAP**

Please see overleaf.

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site is located within the premises of the Blackwater Leisure Centre, at the north-eastern corner of the parking area. Blackwater Leisure Centre lies within the development boundary for Maldon and Heybridge and a Flood Zone 2. Access is taken off the eastern side of Park Drive.
- 3.1.2 Planning permission is sought for the use of three parking spaces as a car wash (use class Sui Generis). The use is already taking place, and as such the application is retrospective in nature. A converted metallic shipping container measuring 2.4m wide by 6m long by 2.6m high has been placed on one of the parking spaces to facilitate the use.

#### **3.2 Conclusion**

- 3.2.1 The stationing of the metal container by way of its scale, poor utilitarian and rudimentary design and detailing and temporary nature is considered to have a detrimental impact upon the character and appearance of the area and visual amenities contrary to adopted and saved policy BE1 of the Maldon District Replacement Local Plan, emerging policy D1 of the submitted Local Development Plan and guidance contained within the National Planning Policy Framework.

### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

#### **4.1 National Planning Policy Framework 2012 including paragraphs:**

- 7-8 - Roles of sustainable development
- 14 - Presumption in favour of sustainable development
- 17 - Core planning principles
- 29-41 - Promoting sustainable transport
- 56-68 - Requiring good design
- 109-125 - Conserving and enhancing the natural environment
- 196-197 Determining applications
- 216 - Weight of emerging plans

#### **4.2 Maldon District Replacement Local Plan 2005 – Saved Policies:**

- CON5 - Pollution Prevention
- T1 - Sustainable Transport and Location of New Development
- T2 - Transport Infrastructure in New Developments
- T8 - Vehicle Parking Standards

#### **4.3 Maldon District Local Development Plan submitted to the Secretary of State for Examination-in-Public on 25 April 2014:**

- D1 - Design Quality and the Built Environment
- D2 - Climate Change & Environmental Impact of New Development
- T1 - Sustainable Transport
- T2 - Accessibility

#### **4.4 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Essex Design Guide

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

5.1.1 The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise [Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990) and paragraph 196 of the NPPF].

5.1.2 The application site lies within the development boundary as defined by strategic policies of both the adopted and emerging local plans. The principle of providing a commercial use within a defined development boundary is acceptable. However, the determining factors of the application would be the impact of the development upon the character and appearance of the area, the parking and access arrangements and its effect upon neighbouring uses.

#### **5.2 Design and Impact on the Character of the Area**

5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high quality built environment for all types of development.

5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. In order to comply with saved policy BE1 of the RLP, the proposal must be compatible with, or improve the surrounding location through its scale, height and choice of external materials. Similarly, the basis of policy D1 of the submitted LDP ensures that development will not have a detrimental impact on its surrounding area and local context and will actively seek opportunities for enhancement in the built environment.

5.2.3 Given its external finishes, scale and lack of detailing, the container is of little architectural merit and as such is at odds with the existing built form within the

locality. Although the development is located away from entrance from Park Drive, the adjacent highway, access to Blackwater Leisure Centre is open to the public. Given that there is no screening around the container, the development is highly visible in the centre. The utilitarian and rudimentary design of the container, which is out of keeping in the context of this location, is causing detrimental and demonstrable harm upon the character and appearance of the area contrary to local and national planning policies.

### **5.3 Impact on Residential Amenity**

- 5.3.1 Policy BE1 of the RLP protect neighbouring occupiers from unacceptable development which results in a loss of amenity in relation to overlooking, overpowering or undue reduction of light to the main windows of their property. Similarly, the basis of policy D1 of the submission LDP seeks to ensure that development will protect the amenity of its surrounding area.
- 5.3.2 The nearest residential property is located approximately 150m west of the application site, across the highway. Given the ample distance between the use and any residential units, it is not considered that the development gives rise to issues of overlooking, loss of privacy or oppressiveness in relation to the amenity of residential occupiers.
- 5.3.3 Concerns have been raised for the opening hours of the car wash. Within the application form the opening hours are stated to be 06:15 – 22:30 Monday to Friday, 07:30 – 18:00 Saturday, 07:30 – 19:00 Sunday. Although the stated opening hours are consistent with the opening hours of the leisure centre, it is considered that proposed hours are excessive and the resultant intermittent stark noises produced from the use would materially alter the soundscape of the area. Whilst there is noise produced from the apparatus and equipment used for the leisure centre, this is a constant underground noise which has been integrated with the ambient noises and forms the soundscape in the vicinity. Therefore, in order to avoid an adverse effect upon the amenities of the neighbouring occupiers, in the event of a positive determination of the application, an appropriately worded condition shall restrict the hours of operation to normal working hours in line with the permitted hours of similar uses, such as 08:00 – 18:00 Mon. – Sat. and 10:00 – 16:00 Sundays and Bank Holidays.

### **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T8 of the RLP seeks to ensure that appropriate off-street parking is provided in conjunction with a change of use. Likewise, policies T1, T2 and D1 of the submission LDP seek to ensure that safe and secure vehicle parking is provided in accordance with the Council's adopted parking standards. The Parking Standards are expressed as maximum standards taking into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable transport.
- 5.4.2 The application site is located within the parking area for the Blackwater Leisure Centre. The access arrangements and the internal traffic arrangements have not been altered because of the development. Nevertheless, three parking bays are occupied by the use. The leisure centre covers an area of 3815.71sq.m., which gives rise to a

requirement of 174 spaces, given that the Council's adopted parking standards require one space per 22sq.m. for this use. At the time of the site inspection, the car parking area had 148 designated parking bays, a deficit of 26 spaces compared to the required standard.

- 5.4.3 Allowing the use to be accommodated on three parking bays would increase the deficit of parking spaces to 29. However, it has to be taken into consideration that the Leisure Centre is well connected with public transport and is located within walkable and cyclable distance from the town centre. Therefore, it is not considered that the loss of three spaces is detrimental to such a degree as to warrant the refusal of the application on this basis.

## **5.5 Impact on the Natural Environment**

- 5.5.1 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. This national guidance has been reflected on policy D2 of the emerging Local Development Plan. In addition policy CON5 of the Replacement Local Plan is consistent with the NPPF.

- 5.5.2 It is known that car wash uses produce water contaminated by vehicle washing waters, chemical additives and steam-cleaning effluent for the disposal of which extra care shall be given. Acceptable solutions may include that any such water to be discharged to the foul sewer and only clean, uncontaminated surface water to be discharged to the surface water drainage system. Surface water susceptible to oil contamination shall be passed through an oil separator prior to being discharged to a soakaway system.

- 5.5.3 There is little information about the drainage arrangements and in the event of a positive determination of the application, appropriately worded conditions shall be considered for the surface and foul water drainage of the scheme in line with policies CON5 of the RLP and D2 of the LDP.

## **5.6 Other Material Planning Considerations**

- 5.6.1 It has been noted that the application site lies within a flood risk zone. However, the use is not sensitive according to the PPG and the Council's Emergency Planner advised that the site does not fall within a warning zone.

## **5.7 Other Matters**

- 5.7.1 It is noted that the application form included details of proposed advertisements. This would have been registered as a separate application, but subsequent to the submission of the application form, the request of the advertisement consent has been withdrawn. Nevertheless, there are advertisement signs on site and away from the site advertising the car wash use which need express consent from the Local Planning Authority in order to be displayed lawfully.

5.7.2 As Council is the owner of the land and the officer's recommendation is to refuse the grant of planning permission, the Council's scheme of delegation determines that the Area Planning Committee shall note the recommendation and report to the Council. However, if the Area Planning Committee is minded to grant permission for the development, this decision is delegated to them.

**6. ANY RELEVANT SITE HISTORY**

- **16/00092/CU** – Enforcement case – Awaiting outcome of planning application.

**7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

**7.1 Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Maldon Town Council	Object - No objection to the car wash but there is no permission for the container.	The application is retrospective in nature. The planning system allows for application to be considered after the development has taken place.

**7.2 Statutory Consultees and Other Organisations (*summarised*)**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Highways	No objection	Comment noted

**7.3 Internal Consultees (*summarised*)**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Emergency Planner	No objection – Although within a flood zone, the site is not within a warning zone.	Comment noted
Environmental Health	No objection in principle subject to conditions relating to surface water drainage, foul water drainage and hours of operation	Comment noted, see sections 5.3 and 5.5 of the report

**7.4 Representations received from Interested Parties** (*summarised*)

7.4.1 No comments have been received for the application by the date of this report.

**8. REASON FOR REFUSAL**

- 1 The stationing of the metal container by way of its scale, poor utilitarian and rudimentary design and detailing and temporary nature is considered to have a detrimental impact upon the character and appearance of the area and visual amenities contrary to adopted and saved policy BE1 of the Maldon District Replacement Local Plan, emerging policy D1 of the submitted Local Development Plan and guidance contained within the National Planning Policy Framework.