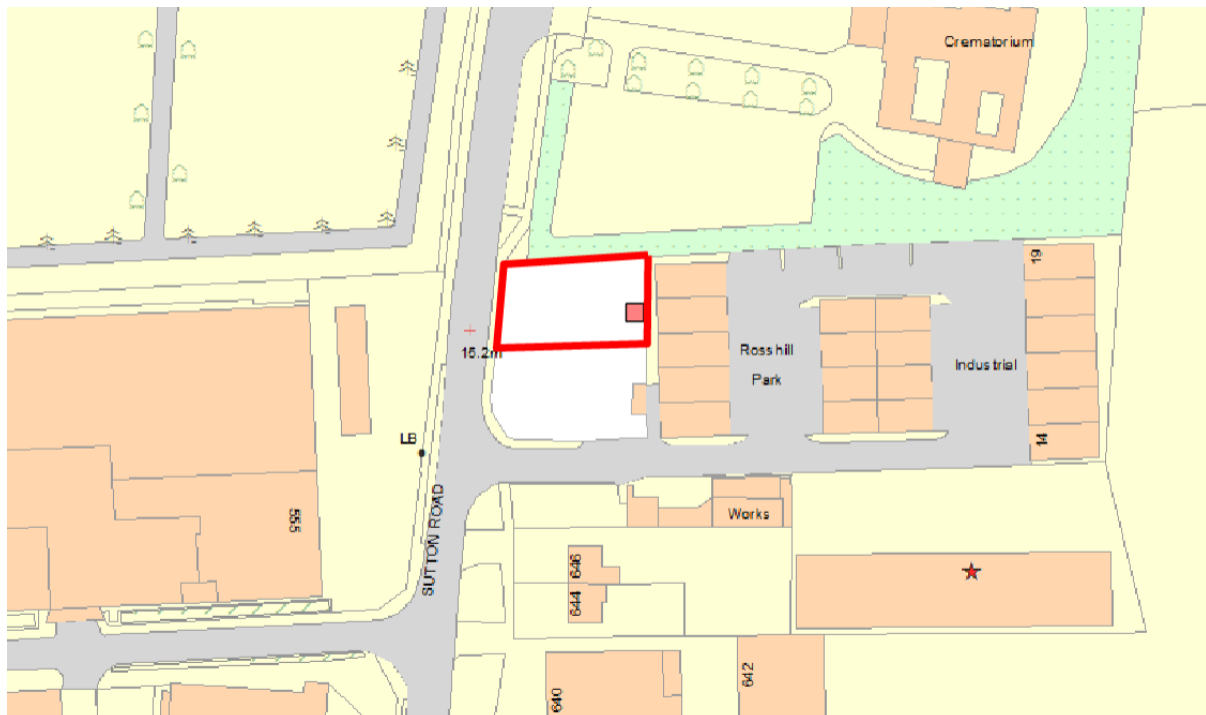


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| Reference: | 18/01215/FUL | |
| Ward: | St Lukes | |
| Proposal: | Demolish existing cafe building and erect single storey building to be used as Restaurant/Cafe (Class A3) | |
| Address: | Hand Car Wash Site 652 Sutton Road | |
| Applicant: | Mr F Bala | |
| Agent: | Mr Gary Horrigan | |
| Consultation Expiry: | 26.07.2018 | |
| Expiry Date: | 04.10.2018 | |
| Case Officer: | Robert Lilburn | |
| Plan Nos: | Site Location Plan, 1055/1 A | |
| Recommendation: | GRANT PLANNING PERMISSION | |



1 The Proposal

- 1.1 Planning permission is sought for the erection of a single storey building to form a cafe. The applicant has stated that it would have 26 seats.
- 1.2 The building would replace an existing temporary 'portable' building which comprises 20 seats. Planning enforcement records show it has been in place since July 2013, and it appears to have been in use as a café since that date. However it is noted that planning permission has never been granted for the change of use of the site for A3 purposes.
- 1.3 The proposed building would be 12m in depth, 5.9m in depth and 3.2m in height above ground level. The submitted plans show that it would be 1.3m wider than the existing building. Revised plans have been submitted during the course of the application, reducing the depth of the proposed building so that it would be no deeper than the existing building. It would not project any further towards Sutton Road than the existing building. Due to the changing levels on the site, the floor level at the Sutton Road elevation would be 0.5m above ground.
- 1.4 The building would be flat roofed and the application forms state it would be finished externally in render of unspecified colour. It would be accessed to the front by steps. There would also be a door at the rear. No external fume extraction equipment is proposed as part of the application. No signage has been shown as part of the submitted plans; this would normally require advertisement consent separately.
- 1.5 The building would occupy the north west corner of the site, in the position of the existing café, adjacent the boundary with the crematorium car park to the north. The existing palisade fencing would be removed.
- 1.6 The submitted forms state that hours of opening would be 0800 to 1800 Monday to Sunday. Six part-time staff would be employed as existing. Twelve car parking spaces would be available as existing; the submitted plans have not indicated the position of these spaces however the applicant has confirmed they would be within the car wash site. As currently the existing accesses would be used in conjunction with the existing car wash operation.
- 1.7 The principle of the use of the remainder of the site as a hand car wash has previously been considered and not objected to, and is not considered within the scope of this application. Planning permission was granted retrospectively on 15.03.2018 for the erection of a single storey building to form office/store and car valeting area to the immediate rear of the building within the application site (18/00081/FUL refers).
- 1.8 The application has been called in by Councillor Van Looy.

2 Site and Surroundings

- 2.1 The application site is part of a parcel of land formerly occupied by a petrol filling station and now shared between a car wash and a car sales lot. It is surfaced in hardstanding, and utilises historic vehicular accesses from Sutton Road and on to Rosshall Industrial Park.

- 2.2 The site is within an area identified in the Development Management Document (2015) as an employment area (Stock Road).
- 2.3 The surroundings are split in character, with the application site clearly belonging to a commercial and light industrial landscape, but immediately bordering the landscaped cemetery and crematorium grounds, which are characterised by mature trees and openness.
- 2.4 The subject building to be removed occupies the north west corner of the site, and incorporates a decked outdoor seating area and small canopy. It has recently been surrounded by 2m high palisade fencing which the applicant has stated would be removed; there is no record of a grant of planning permission for this fencing which is considered visually unacceptable.
- 2.5 Records show that no planning permission has been granted for the existing building. The subject building has been in situ since July 2013; publicly available photographs show that it was not on site in April 2012.
- 2.6 As the operational development of the existing portable building facilitates the café use, further to Section 171B of the Town and Country Planning Act 1990 no planning enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. It is therefore established that the existing use and associated building are unauthorised. On this basis their presence does not add weight to the assessment of the application.

3 Planning Considerations

- 3.1 The key considerations in relation to the application are the principle of the development, design and impact on the street scene, neighbour amenities, and any traffic and transport considerations.

4 Appraisal

Principle of Development

National Planning Policy Framework, Policies KP1, KP2, CP1, CP2, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3, DM10, DM11 and DM15 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.1 Policy KP1 of the Core Strategy seeks sustainable development. Policy KP2 requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood.
- 4.2 The site is identified as an employment area in the Development Management Document. Policy CP1 states that “The Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas”. It confirms that permission will not normally be granted for development proposals that involve the loss of existing employment land and premises.

- 4.3 Policy CP2 relates to town centre type uses such as the proposed and seeks to direct them in preferential sequence to the town centre, district and local centres.
- 4.4 Policies DM10 and DM11 seek to direct particular employment-generating uses to Priority Locations including the Stock Road employment area. Policy DM11 (Employment Areas) states that the Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas.
- 4.5 Policy DM11 states that proposals that fall outside of a Class B employment use will only be granted permission where ... (D) it can be shown that the development will be a complementary and supporting use, which is both subservient and ancillary to the principal employment uses and serves the day-time needs of the estate's working population and will not result in a material change to the Class B character and function of the area.
- 4.6 Policy CP3 seeks to support road safety and Policy DM15 states that development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.
- 4.7 The site is located within the built-up area. The building would be located on a previously developed site. It would be small scale and reasonably accessible on foot to a local catchment at the industrial estate, for example. In accordance with Policies KP1 and KP2 the site is reasonably sustainably located.
- 4.8 Whilst not a Class B use, the principle of the use of the wider site as car wash has previously not been objected to, on the grounds that the site was formerly a petrol filling station and established car sales lot, with reference to the objective of retaining B1 employment land.
- 4.9 A retrospective application (10/02229/FUL) for the use of the site as a hand car wash and for retention of an associated portable building was refused on the grounds of the appearance of the portable building, only. Planning permission was recently granted for the erection of an office/store and associated valeting area within the rear of the site.
- 4.10 The use of this portion of the site for a café would therefore not involve the loss of established 'B' class employment land. In the context of the Employment Area, the café would be complementary to the estate, of a sufficiently small scale to be subservient and ancillary (approximately 82sqm of floor space) to the surrounding employment uses. This would be acceptable in light of Policies DM10 and DM11 of the Development Management Document.
- 4.11 It is considered that the principle of the development at this location is acceptable. Other material planning considerations are discussed below.

Design and Character

National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.12 Paragraph 124 of the NPPF states that “Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.
The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 4.13 The Design and Townscape Guide also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments”*.
- 4.14 The proposed building would be relatively low profile, and of functional design of limited merit. The submitted plans show that its height would match that of the approved structure situated behind it within the site. The applicant has revised the proposals during the course of the application, and it is considered that the building would have an acceptable street-facing frontage with appropriate fenestration.
- 4.15 It would be seen primarily within the context of the light-industrial and commercial backdrop, specifically the associated car wash and the buildings of Rosshill Industrial Park. Its character and appearance would be consistent with this. It would also be seen against the backdrop of the Crematorium grounds.
- 4.16 It is considered that subject to use of appropriate materials this visual relationship would be acceptable as the structure would be clearly delineated within the established commercial area. The applicant has indicated in the submitted forms that a render finish would be used; however a revised plan has indicated a form of cladding. A suitable external finish can be secured through a condition on any planning permission.
- 4.17 Viewed from the north, the building would be visible from the street beyond the site’s boundary wall and from within the crematorium grounds, particularly the car park. It would project above the boundary wall and between gaps in the trees and shrubs.
- 4.18 However, other buildings at the Rosshill Industrial Estate can be seen in a similar manner from the crematorium grounds. Although the building would be more prominent due to its position closer to Sutton Road, it would not be inconsistent with the prevailing situation long this boundary and would not be materially harmful.
- 4.19 The applicant has not proposed any external fume extraction equipment. It is noted that there is no such equipment on the existing, unauthorised building. Given the relatively prominent positioning of the building, any flue or ductwork on the roof may have an unacceptable impact. However this could be controlled by a condition.
- 4.20 It is considered that the visual impact of the proposed building would not be materially harmful to the visual amenities of the site, the character and quality of the crematorium grounds or the wider surroundings. This is subject to appropriate materials which can be secured as a condition of planning permission. On that basis the proposal would be acceptable and policy-compliant in this regard.

Impact on Residential Amenity

National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.21 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.22 Policies DM1 and DM3 of the Development Management Document require all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities, including *“having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”*.
- 4.23 The site is remote from residential properties and the development is considered to have no material impact on residential areas or occupiers.
- 4.24 The applicant has stated that waste storage would be carried out within the building and collection would be private contractual arrangements. The proposals are considered acceptable and policy-compliant in regard to residential amenities.

Traffic and Transport Issues

National Planning Policy Framework, Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.25 Policy DM15 of the Development Management Document and Policy CP3 of the Core Strategy seek to maintain highway safety.
- 4.26 The highway authority has confirmed no objection to the arrangement shown on the submitted plans. It is noted that the existing café appears incidental and generally subservient to the industrial estate, and close to a zebra crossing, and that the proposed is not significantly larger.
- 4.27 The proposal is considered acceptable and compliant with policy objectives in this regard. Should a plan be received setting out the position of the twelve car parking spaces this will be supplied to the committee, however it is not considered essential to the determination of the application in this instance given the scale, character and context of the proposal.

Community Infrastructure Levy

CIL Charging Schedule 2015

- 4.28 The new floor space created by the proposal would be less than 100m². Therefore, the proposed development is not CIL liable.

5 Conclusion

- 5.1 Having taken all material planning considerations into account, it is found that the development is acceptable in principle and compliant with the objectives of the relevant development plan policies and guidance. It is considered that the development does not cause material harm to the visual amenities, character and quality of the area, residential amenities or the safety of the highway. Therefore, it is recommended that planning permission is granted.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (2018)
- 6.2 The Southend-on-Sea Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP1 (Employment Generating Development) CP2 (Town Centre and Retail Development) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance)
- 6.3 The Southend-on-Sea Development Management Document (2015): Policies DM1 (Design Quality) DM3 (The Efficient and Effective Use of Land) DM10 (Employment Sectors) DM11 (Employment Areas) DM15 (Sustainable Transport Management)
- 6.4 Design & Townscape Guide (2009)
- 6.5 CIL Charging Schedule 2015

7 Representation Summary

Public Consultation

- 7.1 14 neighbours were notified. No representations have been received.

8 Relevant Planning History

- 8.1 18/00081/FUL: Erect single storey building to form office/store and car valeting area (Retrospective). Approved.

13/00193/UNAU_B: Alleged unauthorised development (erection of cafe) and unauthorised advertisements. 'Car wash cafe' concerns raised on 26.07.2013. Café first noted in situ 12.09.2013.

13/00071/UCOU_C: A letter from Southend Borough Council of 28.08.2014 confirms that the building subject of the refusal under 10/02229/FUL had been removed.

10/02229/FUL: Use of site as hand car wash (sui generis) (retrospective). Refused for the following reason: *The development, including the structure located on site and the appearance of the site, is to the detriment of the character and appearance of the locality contrary to Policies C11 of the Borough Local Plan and KP2 and CP4 of the Core Strategy, advice contained within the adopted Design and Townscape Guide (SPD1) and government guidance contained with Planning Policy Statement*

1: Delivering Sustainable Development (PPS1).

07/00008/FUL: Use car showroom (class sui generis) as bathroom showroom (Class A1) (Amended Proposal). Approved.

90/0162: Variation of Condition 03 on SOS/85/1095 to allow a limited display for the sale of vehicles. Approved.

88/0326: Variation of Condition 03 on SOS/85/1095 to allow a limited display for the sale of vehicles. Approved.

85/1095: Demolish and alter part of existing buildings erect canopy pump islands and kiosk and install tanks. Approved.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01. The development hereby permitted shall be retained in accordance with the following approved plans: Site Location Plan, 1055/1 A.

Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.

02. Notwithstanding the approved plans, no development shall commence other than demolition and construction up to ground floor slab level unless and until details of all external materials including finishes to walls, window frames and glazing have been submitted to and approved in writing by the local planning authority. Only the approved details shall be implemented as part of the development.

Reason: To safeguard the visual amenities of the area, in accordance with the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

03. The premises shall not be open for business outside the following hours: 08:00 to 18:00 hours Monday to Sunday.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

04. The development hereby approved, for purposes falling within Class A3, shall only be occupied as a café only as applied for, and shall not be used for any other purpose, including any change of use permitted under the Town and Country Planning (General Permitted

Development) Order 2015 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting these Orders, with or without modification.

Reason: To ensure the development is implemented in accordance with the permission sought and to enable the Local Planning Authority to retain control of the use of the floor space within the Use Class specified so that occupation of the premises does not prejudice amenity, in accordance with the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), and Policy DM3 of the Southend-on-Sea Development Management Document (2015).

- 05. External extraction and ventilation equipment shall only be erected on the development in accordance with details that have previously been submitted to and agreed in writing by the local planning authority.**

Reason: To safeguard the visual amenities of the area, in accordance with the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives

- 1. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**
- 2. A separate planning permission would be required for any external alterations to the approved building, including fume extraction equipment.**