



**REGULATORY  
SERVICES  
COMMITTEE**

**REPORT**

23 June 2011

**Subject Heading:**

**Alleged breach of planning control at  
County Service Station, Essex  
Gardens, Hornchurch**

**Report Author and contact details:**

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**Policy context:**

**Local Development Framework**

**Financial summary:**

**Enforcement action and a defence of  
the Council's case in any appeal will  
have financial implications**

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

**SUMMARY**

This property is a former petrol station within a residential area which has an ancillary sales kiosk. Since June 2009 the Planning Enforcement Service has received complaints regarding a car wash operation from the site. No planning application has been made for the change of use to a car wash. It is considered that the change of use has had a material harmful impact on occupiers of

adjoining properties by reason of noise and disturbance and inadequate parking layout.

The change of use has occurred within the last 10 years and therefore it is requested that authority be given to issue and serve an Enforcement Notice to seek to remedy the breach.

## **RECOMMENDATIONS**

That the Committee consider it expedient that an Enforcement Notice be issued and served to require, within one month:

- (i) To cease the use of the land for the washing and valeting of vehicles.
- (ii) To cease the use of the land for storage of cleaning materials.
- (iii) Remove from the land all machinery, equipment, apparatus, cleaning materials, vehicles, tools, scrap, waste, signage and installations brought onto the land associated with the unauthorised use and to comply with requirements (i) and (ii) above.

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

## **REPORT DETAIL**

### **1. Site Description**

- 1.1 County Service Station, Essex Gardens, Hornchurch is a former petrol filling station with an ancillary sales kiosk. It has a substantial frontage to Essex Gardens adjacent to its junction with Wingletye Lane, a busy traffic route.
- 1.2 The access to the site is from Essex Gardens. There is an area of retail and commercial development along the south side of Essex Gardens to the east of the site but otherwise the locality is predominantly residential in character.
- 1.3 Opposite the site, to the north of Essex Gardens is a variety of dwellings and to the south of the site fronting Wingletye Lane is a detached bungalow.

### **2. Alleged Planning Contravention**

- 2.1 Without planning permission a change of use to a car wash.

**3. Relevant Planning History**

ES/HOR/1605/58	Petrol station service bay – approved 11.11.59
L/HAV/203/82	New sales building and forecourt canopy, new storage tank – approved 15.6.82
L/HAV/259/83	Alterations to opening hours – refused 24.5.83 Appeal 16.2.84 (conditional amendment)
P0151.07	Change of use to car sales – refused 5.4.07. Appeal dismissed 9.1.08

**4. Enforcement Background**

- 4.1 In June 2009, the Authority received a complaint that the site was operating as a car wash. Complaints followed as a result of increased activity and on occasions included the sale of fireworks and the importation of a large shipping container for the storage of fireworks.
- 4.2 Following complaints, officers from the Planning Enforcement Service visited the property.
- 4.3 Officers saw that car washing was taking place and that hand held pressure sprays were in use as well as vacuum cleaners.
- 4.4 It is alleged that noise and disturbance is being caused by the use of valeting tools and the use of jet washers.
- 4.5 This constitutes a material change of use from the authorised use as a petrol filling station.
- 4.6 The Authority has made numerous requests through the owners and their Solicitor for the submission of a planning application however none has been forthcoming and the unauthorised use continues.

**5. Material Consideration of the Use or Development**

- 5.1 The issue is whether it is expedient for this Council to serve a planning Enforcement Notice having regard to the nature and impact of the unauthorised change of use. The relevant policies are DC33, DC34, DC51, DC55 and DC61 of the adopted Local Development Framework.

**6. Justification for Intended Action**

- 6.1 The use of a former petrol station as a car wash and valeting service constitutes a material change of use that requires planning permission. This may be acceptable in principle however in the absence of a planning

- application the Council are unable to impose conditions to adequately control the use.
- 6.2 Policy DC33 sets out car parking provision within new developments. There are no parking control facilities and/or marked out parking bays on site. Further there is no provision for queuing traffic entering or leaving the site and vehicles may have to park in the street.
- 6.3 Policy DC34 states in the design and location of access developers will be required to take account of the needs of pedestrians.
- 6.4 The site is close to a small shopping parade, a bus terminus, residential housing and local schools. Therefore there is a need for making the area safer for pedestrians.
- 6.5 Policy DC51 states that planning permission will only be granted for development which has no adverse impact on water quality, water courses, groundwater, surface water or drainage.
- 6.6 Therefore there is a need by the operator to demonstrate to the Council a scheme to ensure that water is dispersed through adequate drainage and that there is no adverse effect by water on other land or the highway.
- 6.7 Policy DC55 states that planning permission will not be granted if it will result in noise or vibrations above acceptable levels.
- 6.8 Power sprays and vacuum cleaners are used on site for valeting purposes. It is the noise and disturbance from their operation that has resulted in complaints from residents. The Council is seeking to minimise the impact of local residents.
- 6.9 Policy DC61 states that *"Planning permission will not be granted where the proposal results in unacceptable overshadowing, loss of sunlight/daylight, overlooking or loss of privacy to existing and new properties and has unreasonable adverse effects on the environment by reason of noise impact, hours of operation, vibration and fumes."*
- 6.10 There appears to be a noise impact which could be controlled by the hours of operation.
- 6.11 For the reasons set out above it is considered that the use of the site needs to be controlled by the Planning Authority and in the absence of a planning application and to ensure that there is compliance with the Council's Development Control Policies Development Plan Document namely DC33, DC34, DC51, DC55 and DC61 the Council should serve an Enforcement Notice.

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

Enforcement action may have financial implications for the Council.

**Legal implications and risks:**

Enforcement action, defence of any appeal and if required, prosecution procedures will have resource implications for Legal Services.

**Human Resources implications and risks:**

No implications identified.

**Equalities implications and risks:**

No implications identified.

**BACKGROUND PAPERS**

1. Ordnance survey extracts showing site and surroundings.