



---

## Appeal Decision

Site visit made on 25 January 2021

**by Hilary Orr MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 March 2021**

---

**Appeal Ref: APP/H2265/C/20/3256328**

**Vineyard Restaurant London Road Wrotham Heath, Sevenoaks Kent  
TN15 7RU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Isletta Catering Solutions Ltd against an enforcement notice issued by Tonbridge & Malling Borough Council.
  - The enforcement notice, numbered 20/00032/USEH, was issued on 24 June 2020.
  - The breach of planning control as alleged in the notice is the unauthorised change of use from restaurant car park to a hand car wash which incorporates the use of car washing equipment, water tanks and the installation of surface water drainage and portacabin.
  - The requirements of the notice are to cease the use of the hand car wash use and remove all associated car washing equipment, structures and drainage provisions in their entirety from the site.
  - The period for compliance with the requirements is 21 calendar days.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- 

### Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Preliminary matters

2. Following the submission of the appeal the appellant confirmed that they wished to change the details on the Enforcement Notice Appeal Form originally submitted, to reflect the applicant on the related planning application. This change is reflected in the above Header and the appeal has been dealt with accordingly.
3. Following the issue of the notice, and my site inspection, the Council advised that an open roofed wooden structure had been constructed within the parking area of the site. At my visit the car wash was not operating, and save for a hand sanitiser dispenser, this structures purpose was unclear. As the notice had already been issued, it is not specifically included in the description of the breach. However, it is well established in case law that the notice can legitimately require the removal of works integral to, and solely for, the purpose of facilitating unauthorised development. However, I have no evidence

before me to establish that the building has been constructed in connection with the hand car wash. I have therefore considered the appeal on this basis.

4. The appellants evidence refers to the site being within the Green Belt. However, the Council have confirmed that the site does not lie within a Green Belt designation. This position is reflected in my decision.
5. During the appeal the appellant submitted a noise impact assessment dated 19 August 2020, together with additional plans to demonstrate how vehicles would be managed on the site. The Council have been given the opportunity to consider this additional information. As a result, they have confirmed that they no longer wish to pursue the second reason for issuing the notice, relating to noise generation. Accordingly, I have considered the remaining reasons cited in the notice.

### **Main Issues**

6. Subject to the above, I have had regard to the reasons why the Council issued the notice and consider that the main issues are:
  - The effect of the development on highway safety; and
  - The effect of the development on the character and appearance of the area.

### **Reasons**

#### *Highway safety*

7. The site is located within the Wrotham Heath Rural settlement to the north of the A20. Ford Lane lies immediately to the west. The main junction with B2016 lies a short distance away, and the junction with A25 a short distance to the west. Both of these junction have roundabouts. The hand car wash is sited within the existing car park for the restaurant, where there is an in and out access and egress from the A20. The A20 is designated 50mph.
8. The appeal site comprises a detached two storey building, with an adjacent smaller detached building to the west. There is a hard surfaced car park, provided for customers using the restaurant. The car park is bounded by close boarded fencing to the north and west, with a gate leading to a storage area to the rear of the site.
9. It is the appellants case that the restaurant and the car wash are operated by the same owner and the car wash will largely be open at different times. Whilst this would reduce the opportunity for conflict between the uses, it is acknowledged by the appellant that there will be occasions, including at weekends, where both uses could be operating together.
10. The Council have provided plans and the officer report from the application submitted in 2007 (TM/07/02124/FL), for a side and rear extension to the restaurant. The exact number of parking spaces required for the extended restaurant is not clear from these documents. Although, the report suggests between 36 and 37 spaces would be needed, this was however not controlled by a condition. It is understood that this permission has been implemented. I have no evidence before me to determine the current capacity of the restaurant, or the resultant level of customer parking that will be required when it re-opens. The appellants submitted plans appear to show 14 visitor

parking spaces, in addition to two potential staff spaces with the remainder of the car park available for customers of the car wash.

11. I do not consider that it would be appropriate, to try to restrict the number of customers using the car wash through a planning condition. Consequently, on the occasions where both the car wash and the restaurant are operating, it is not clear how both could be accommodated within this modest site. I recognise that customers would be able to drive past the site, avoiding the need to manoeuvre on the highway by using the two nearby roundabouts. Similarly, I acknowledge that a member of staff could be provided to manage traffic on the site, turning customers away where necessary. However, I am not satisfied that this could be achieved, without the need for traffic to slow, or stop on the carriageway to liaise with staff, resulting in the potential for significant harm to the safety and convenience of other road users.
12. For the above reasons, and on the evidence before me, I find that the development is likely to cause significant harm to highway safety. It therefore conflicts with Policy SQ8 of the Managing Development and the Environment; Development Plan Document; Part of the Local Development Framework for Tonbridge and Malling (2010) (DPD). In summary this policy seeks to ensure that new development does not significantly harm highway safety or cause traffic delays.

#### *Character and appearance*

13. The appellant submits that the use of the site for hand car washing differs little from its use as a restaurant car park.
14. The hand car wash has been sited within the confines of the existing customer car park which has the appearance of an informal car park. However, the car park would normally only feature vehicles associated with the restaurant. This means that customer vehicles are likely to be parked in situ for extended periods. By contrast the introduction of the hand car wash increases the overall vehicular activity and the nature of that activity. Cars queuing and being processed within the site would be highly visible in the street scene.
15. The use has resulted in the stationing of a portable building, several storage tanks and valeting equipment. I acknowledge that these are largely sited in the storage area behind the fence to the rear of the car park. Nonetheless, albeit that they are screened from view, they further add to the developed nature of the site.
16. The appellant submits that they do not wish to erect permanent signage and signs displayed during operating hours would be removed at the end of the working day. At the time of my site visit, I acknowledge that some of the signs had been removed and were stored in the storage area. However, several garish and highly coloured adverts remained. Whilst advertisements can, to some extent, be controlled through the Advertisement Regulations, the use is likely to require some advertising. The open nature of the site means that these would be highly visible to those using the A20. Consequently, they detract from the appearance of the area, even if only displayed during operating hours.
17. For the above reasons, I find that the hand car wash, by virtue of the increased vehicular activity, equipment and portable building, causes unacceptable harm

to the character and appearance of the area. It therefore conflicts with Policy SQ1 of the DPD and CP24 of the Tonbridge and Malling Borough Council, Local Development Framework Core Strategy (2007) (CS) which expects all development to be well designed, and to protect, conserve and where possible enhance the character and local distinctiveness of the area.

### **Other matters**

18. I have considered the suggestion that planning permission could be granted for a limited period of three years. However, I do not consider that this would overcome the serious concerns that I have identified.
19. My attention has been drawn to other similar development in the area, although I have not been provided with the addresses, details for these, or their relevance to this appeal. In any event I have to determine this appeal on the evidence before me and their existence does not justify allowing this appeal.
20. I understand that the operator has tidied and carried out maintenance to this area of land, and this may have discouraged anti-social behaviour. However, I consider that the site could be maintained in such a way to allow natural surveillance and monitoring, even if the appeal is dismissed.

### **Conclusion**

21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Hilary Orr*

INSPECTOR