

Item 6(v)

Application Reference	DC/081396
Location:	Mercedes Benz Of Stockport Units 7 To 8 Brighton Road Heaton Mersey Stockport SK4 2BE
PROPOSAL:	Application for the Variation of Condition 21 (Opening Hours) attached to planning permission DC/066233 to allow the extension of the permitted operating hours for the site
Type Of Application:	Minor Material Amendment
Registration Date:	16.06.2021
Expiry Date:	20210915
Case Officer:	Jeni Regan
Applicant:	LSH Auto Properties (UK) Limited
Agent:	Terence O'Rourke Ltd

DELEGATION/COMMITTEE STATUS

This application was presented to Heaton and Reddish Area Committee on the 18th October 2021. Due to concerns raised by the Heaton South Ward Councillors, the Area Committee deferred the application to the Planning and Highways Regulatory Committee for a site visit and final determination.

The application was originally referred to the Heaton and Reddish Area Committee due to receipt of 5 letters of objection and one petition, contrary to the officer recommendation to grant.

DESCRIPTION OF DEVELOPMENT

The site was granted planning permission under application DC/066233 on the 10th May 2018 for the following development:

Demolition of all structures on site and the erection of a car showroom and associated parking (Sui Generis use), after sales facility, car preparation and repair facility including body shop, MOT Test Centre (B2 use), car storage (B8 use), associated infrastructure, landscaping, access and junction improvements.

This permission has since been implemented and the site opened for business in August 2019.

Condition 21 attached to this planning permission was in relation to the operating hours for the site and read as follows:

Condition 21

- Sales shall only take place between 08:00 and 19:00 Monday to Friday, 08:00 and 18:00 on Saturday and 11:00 and 17:00 on Sunday.

- *Servicing of vehicles shall only be undertaken between 06:00 and 19:00 Monday to Friday, 06:00 and 17:00 on Saturday and not at all on Sunday.*
- *Workshop doors shall remain shut whilst any servicing of vehicles is undertaken between 06:00 and 08:30.*
- *The Body and Paint Centre shall only be operational between 08:00 and 17:00 Monday to Friday, 08:00 and 14:00 on Saturday and not at all on Sunday.*
- *Ancillary office functions including the call centre shall only operate between 06:00 and 19:00 Monday to Friday and 08:00 and 19:00 on Saturday and Sunday.*
- *Deliveries shall only take place between 07:00 and 19:00 unless otherwise agreed in an Overnight Delivery Management Plan.*
- *Prior to occupation of the development hereby granted, a Management Plan for overnight deliveries (between 19:00 and 07:00) shall be submitted to and approved in writing by the Local Planning Authority. Any night-time deliveries shall thereafter be undertaken in accordance with the approved Management Plan.*

Reason - In the interests of the amenity of the occupants of nearby residential dwellings and to ensure compliance with policies SIE-1 : QUALITY PLACES and SIE-3 : PROTECTING, SAFEGUARDING AND ENHANCING THE ENVIRONMENT of the adopted Stockport Core Strategy DPD.

Planning permission is now sought through this Section 73 application for the Variation of condition 21 (operational hours) previously attached to planning permission DC/066233 to allow the extension of these permitted operating hours for the site.

Within the submission, the applicant has confirmed that the change in hours is in respect of the servicing and sales hours and they wish to amend the operating hours of the facility for the following reasons. The trigger for seeking this application is driven partly by the COVID-19 pandemic, and the need to adjust to customer revised expectations of a much more flexible service. Customer behaviour has changed as a result of the pandemic, less travel to the office, more working from home, more of a work life blend, and a desire for on-demand services. The applicant (LSH) want to adapt their business to meet these changing customer needs, which means offering appointments when customers want them; 42% of customers want early morning appointments, 30% evenings and 33% Sunday servicing.

In the short term in response to the pandemic, a staggered express appointment booking service has been introduced which reduces the number of customers on site at any one time. In order to accommodate an anticipated increase in the number of customers in a safe and controlled manner going forward in the future, the sought extended operating hours would provide the flexibility to facilitate this process.

Permission is therefore, sought for the following changes:

- Extend the operating hours for servicing of vehicles from 7pm to 10pm (Monday – Friday)
- Allow the servicing of vehicles on a Sunday from 11am to 5pm

- Extend the sales hours to 8pm (from 7pm)

SITE AND SURROUNDINGS

The application site is situated between the M60 Motorway and the A5145 Didsbury Road and comprises a 4.5 hectare site which includes a car showroom, sales facility, car preparation and repair facility, MOT test centre and car storage with associated access/junction, parking, landscaping and infrastructure.

The area to the North of the site is characterised by predominantly residential properties on Didsbury Road, Craig Road, Craig Close, Russell Gardens, Hamilton Crescent and Langham Road and commercial/industrial premises immediately North of the central portion of the site. To the East of the site are residential properties on Didsbury Road and Brighton Road and a small retail park at Kings View. The site is adjoined to the South by the M60 motorway. To the West of the site is a sports facility and open space.

POLICY BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan includes-

- Policies set out in the Stockport Unitary Development Plan Review adopted 31st May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17th March 2011.

The main part of the application site is allocated within the Town Centre/M60 Gateway (TCG4.3 : Didsbury Road) and the North Eastern portion of the site is allocated within a Predominantly Residential Area, as defined on the UDP Proposals Map. The M60 motorway lies to the South of the site and there is a Public Right of Way which runs to the South of the site between the site and the M60.

The following policies are therefore relevant in consideration of this variation of operational hours application :-

Saved policies of the SUDP Review

- CDH1.2 : NON-RESIDENTIAL DEVELOPMENT IN PREDOMINANTLY RESIDENTIAL AREAS

LDF Core Strategy/Development Management policies

- CS7 : ACCOMMODATING ECONOMIC DEVELOPMENT
- CS8 : SAFEGUARDING AND IMPROVING THE ENVIRONMENT
- SIE-1 : QUALITY PLACES
- SIE-3 : PROTECTING, SAFEGUARDING AND ENHANCING THE ENVIRONMENT
- CS9 : TRANSPORT AND DEVELOPMENT
- CS10 : AN EFFECTIVE AND SUSTAINABLE TRANSPORT NETWORK

- T-1 : TRANSPORT AND DEVELOPMENT
- T-2 : PARKING IN DEVELOPMENTS
- T-3 : SAFETY AND CAPACITY ON THE HIGHWAY NETWORK

National Planning Policy Framework

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) in August 2021 replaced the previous NPPF (originally issued 2012 & revised 2018 and 2019). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

[National Planning Policy Framework.](#)

Para.1 *“The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.*

Para.2 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.*

Para.7 *“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

Para.8 *“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) *an economic objective*
- b) *a social objective*
- c) *an environmental objective”*

Para.11 *“Plans and decisions should apply a presumption in favour of sustainable development.*

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

Para.12 “.....Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.

Para.38 “Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.

Para.47 “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.

Para 81 “Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

Para.219 “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

Planning Practice Guidance

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

<https://www.gov.uk/government/collections/planning-practice-guidance>

RELEVANT PLANNING HISTORY

There are a large number of applications registered against this address, however the main applications of interest to this application are as follows:

DC065529 : Screening Opinion for the redevelopment of the site to provide a 13,700 square metre car showroom building and 17,100 square metre car preparation facility, with associated access, parking and landscaping : EIA Not Required – 03/05/17.

DC/066233 : Full planning application for demolition of all structures on site and the erection of a car showroom and associated parking (Sui Generis use), after sales facility, car preparation and repair facility including body shop, MOT Test Centre (B2 use), car storage (B8 use), associated infrastructure, landscaping, access and junction improvements.; Decision Date: 30-APR-18; Decision: GTD

Reference: DC/069700; Type: ADV; Address: Brighton Road Industrial Estate , Brighton Road, Heaton Mersey, Stockport, SK4 2BE; Proposal: Provision of various illuminated and non-illuminated building signs, access road signs, car park signs, flag signs and sign to site entrance for car dealership; Decision Date: 13-SEP-18; Decision: GTD

NEIGHBOUR'S VIEWS

The owners/occupiers of 164 surrounding properties were notified in writing of the application and the application was advertised by way of a site and press notice.

In response, 5 letters of objection have been received to the application including a petition. It should be noted however, that the petition has been submitted online and comprises a list of names only, with no signatures or addresses of the names provided. There are 28 names provided on the list.

The 5 objections received are summarised as follows :-

- There is no need to extend the operating hours of the facility.
- They state that as a short term response to the pandemic an appointment booking service has been introduced. As all restrictions will be lifted from July 19th, this will not be required.
- These extended hours will mean more traffic movements on Brighton Road earlier in the morning until later at night.
- There will be more noise from vehicles going up and down the ramp in the multi-storey car park and the sound of car horns for more hours that can be heard on Craig Close at the rear of the site.
- Object on the grounds of noise, particularly in relation to the use of the smoke shelter and cycle shelter immediately adjacent to properties. The shelters are in constant use from very early in the morning till closing in the evening by literally dozens of people. There can be upwards of a dozen people in and around these facilities at any given time (including pre 6 am). The noise from the people and smell of smoke are quite unacceptable. If the plan is accepted I would at least expect that these shelters would be moved away from the houses to the south or west side of the site where there are no properties.
- The sound of car horns being sounded around the site all day is also an objection.
- They state that they have asked their customers for their views. Have they asked their employees or neighbours?
- Also these extra hours will need the use of more energy on the site. This will be bad for the community and the environment.
- If this application was successful, then a succession of vehicles from business activity will have their lights on at night & shining straight into our bedroom window as they exited Brighton Road. This light pollution would no doubt be the cause of many sleepless nights. The lighting on the site has not worked properly since day one. The lights on the body shop/multi-storey car park can go on at any time of the night and light up the whole area. I don't know what

effect this can have on wild life in the adjacent fields and as of this week the lights in the workshops have been on all night.

- Also on the subject of the afore mentioned landscaping. This is a disgrace it is just a large overgrown area of weeds at both ends of Craig Close which has never been attended to since day one.
- One last observation is that on the original plans there was a staff car park. Yet the staff appear to parking in streets all around the area including Craig Close.

The comments made on the submitted petition are as follows:

- Many residents were unaware of earlier proposals, such as the 'necessity' to have 24-hour delivery, which all thought was the pre-cursor to eventual 24-hour operation, which, had they been aware of, would have objected to, without exception. This came as a shock to most.
- The 'citing' of Covid-19 as the reason to extend the hours is seen as 'laughable'. The site has been observed on multiple occasions, ignoring the fundamental requirements of PPE and social-distancing, so this 'new-found conscience' fools no one.
- The site routinely ignores the law in its breaking of the 'Control of Pollution Act 1974' Part III in its wilful disregard of noise pollution legislation, including day, night, weekends, bank-holidays, etc. To suggest that the proposals will not affect the quality of life for the long-suffering residents is arrant nonsense. Until these flagrant abuses are ended in perpetuity, no further proposals should be considered.
- With respect to the 'cover letter' from a Mr. R. Moyse, we were alarmed, but not surprised to find that, "Secondly, it is anticipated that the pandemic will result in permanent changes to people's lifestyles..."; many feel they have already been repeatedly 'penetrated' by the Mercedes Benz organization from both front and rear.
- If Mercedes Benz Stockport were truly interested in Stockport, it would simply employ double the staff, all from Stockport, unlike the present incumbents who hail from elsewhere and start to operate in civilised hours, so everyone can go home and watch Coronation Street and see their adoring families. Instead, the prospect of further creeping barbarity awaits.
- The 'site boundary' shown in the .pdf document includes a large proportion of Didsbury Rd. Further clarification as to the ownership of the highway bounded by this line is required, mandatorily.
- It is not believed that the business requires additional opening hours for the justification provided in the application. Many restrictions are now easing in the UK, and as such the argument suggesting the extended opening hours is to accommodate the same number of customers does not hold. It is quite clear that as restrictions relax, instead of spreading the customers over a larger time frame, simply more customers will be added per day - notably increasing strain on local roads.
- Since the site has opened, it has become increasingly difficult for local residents to park their cars near to their homes, as many staff who work at the site are parking on local roads. They are regularly seen walking to the site in

their company uniforms, particularly at the start and end of the day. The increase in opening hours would only serve to worsen the parking situation, by extending these issues further into the evening.

- Furthermore, other similar businesses locally (including the VW garage only across the road, also the Audi and BMW garages nearby are all shut by early evening) do not see it as necessary to operate to the hours requested by this application. To set the precedent that these kind of hours would be seen as appropriate by local residents would yet further negatively impact the area for those who live here.
- The precedent set by allowing this change would provide for these other businesses to increase their own impact on the local area, and this should be avoided.

CONSULTEE RESPONSES

Environmental Health

Original Comments – 06.08.2021

Cover letter, Terence O'Rourke, 3 June 2021, Reference: 252402G

- Extend the operating hours for servicing of vehicles from 7pm to 10pm (Monday – Friday)
- Allow the servicing of vehicles on a Sunday from 11am to 5pm
- Extend the sales hours to 8pm (from 7pm)

The agent makes reference to:

The condition also required the submission of an overnight delivery management plan, which was duly submitted on 12 December 2018, with confirmation received on 29 March 2019 that it was acceptable. Therefore, the proposed amended wording refers to this document, rather than requiring its submission.

The agent has not referenced the discharge of condition application number and there is no history of 'delivery management plan' Condition 21 of DC/066233 being discharged.

This variation of condition application includes the following changes:

- Sales shall only take place between 08:00 and 20:00 Monday to Friday = 1 HOUR EXTENSION
- Servicing of vehicles shall only be undertaken between 06:00 and 22:00 Monday to Friday = 3 HOUR EXTENSION
and
11:00-17:00 on Sunday = NEW 6 HOURS (Sunday Trading)
- Deliveries shall only take place between 07:00 and 19:00.
= ADDITIONAL WORDING - Deliveries outside of these hours should only be undertaken in accordance with the approved Out of Hours delivery plan dated 30th November 2018 or any subsequent version agreed in writing with the Local Planning Authority.

CONDITION 26 OF DC/066233, 30th April 2018, is relevant in this case. This condition remains unaltered and enforceable for the protection of residential amenity:

Condition 26

Noise from the proposed commercial premises shall not exceed 41dB LAeq 1h at receptors in the vicinity of the car showroom, and 42dB LAeq, 1h at receptors in the vicinity of the car preparation facility during the daytime.

Noise from the proposed commercial premises shall not exceed 31dB LAeq, 15minutes at receptors in the vicinity of the car showroom, and 30dB LAeq, 15minutes at receptors in the vicinity of the car preparation facility, during the night-time period.

Reason - To ensure that the amenity of adjacent land uses is adequately protected and to ensure compliance with policy SIE-3 : PROTECTING, SAFEGUARDING AND ENHANCING THE ENVIRONMENT of the adopted Stockport Core Strategy DPD.

The wording of this condition and its contents were as agreed previously by this service from the Noise Impact Assessment (NIA) submitted in support of DC/066233, by Wardell Armstrong, June 2017, Land at the Former Brighton Road, Industrial Estate, Job No: LE13779, Report No: 004.

In summary, the variation of condition application DC/081396, proposes:

- Extending car sales, terminal hour, by one hour, Monday-Friday to 20:00 (5 additional car sale hours per week)
- Extending servicing of vehicles, by three hours Monday – Friday to 22:00 (15 additional car servicing hours per week)
- Introducing servicing of vehicles on a Sunday between 11:00 – 17:00 (6 additional hours per week)

Before any further comments can be made in regards to these proposed changes, the following information is required to support the application:

1. The Traffic / Delivery Management Plan, referenced in the cover letter.
2. To overcome concerns regarding multi-storey car-park use/ car storage floors and light spillage arising from the extended use of the commercial activity, details of multi-storey carpark, light spillage control measures, shall be submitted.

Therefore, the above requested information must be submitted for consideration before the application can be progressed towards a final decision.

Further comments – 24.08.2021

DELIVERY MANAGEMENT PLAN

Further to my comments dated: 6/8/21, the 'delivery management plan' as required by Condition 21 of DC/066233 has now been submitted. I understand that the agent has had communication from the Council accepting this document, but it has not yet been formally discharged in writing.

As the delivery management plan has previously been accepted by an Environmental Health Officer, and has been further submitted in support of this current app DC/081396 - I have no further comments to make on this matter.

NOISE

This application is ONLY for the Variation of Condition 21 (Opening Hours) attached to planning permission DC/066233 to allow the extension of the permitted operating hours for the site. In my opinion, what is critical for the variation of condition 21 of DC/066233 and primarily to address public concerns, are the other existing conditions attached to the original permission (DC/066233).

Condition 26 of DC/066233, 30th April 2018, applies a maximum noise limit for the site during the daytime (07:00 – 23:00) and at night-time (23:00 – 07:00). This condition states as follows:

Noise from the proposed commercial premises shall not exceed 41dB LAeq 1h at receptors in the vicinity of the car showroom, and 42dB LAeq, 1h at receptors in the vicinity of the car preparation facility during the daytime.

Noise from the proposed commercial premises shall not exceed 31dB LAeq, 15minutes at receptors in the vicinity of the car showroom, and 30dB LAeq, 15minutes at receptors in the vicinity of the car preparation facility, during the night-time period.

This condition remains both relevant and unaltered to any variation of opening hours. Therefore, as long as these maximum noise limits are still complied with, this should ensure for the ongoing protection of residential amenity.

LIGHT SPILLAGE

The agent was to check with the client if the multistorey car park will be in use or not in the extended hours:

To overcome concerns regarding multi-storey car-park use/ car storage floors and light spillage arising from the extended use of the commercial activity, details of multi-storey carpark, light spillage control measures, shall be submitted.

This information remains outstanding and should be submitted by the agent.

Final comments – 07.09.2021

The email from the agent, 06 September 2021 addressing the use of the multi-storey carpark during the proposed extended hours (light spillage) is accepted.

Highways

I write with respect to application DC/081396. The restriction on trading hours was imposed for reason of protecting the amenity of nearby residential properties and I have no concern from a highway perspective with the proposed changes to hours/variation to condition 21 on approval DC/066233.

ANALYSIS

Core Strategy Policy SIE-1 states that development that is designed and landscaped to the highest contemporary standard, paying high regard to the built and/or natural environment within which it is sited, will be given positive consideration. Specific account should be had of the provision, maintenance and enhancement (where suitable) of satisfactory levels of access, privacy and amenity for future, existing and neighbouring users and residents.

Saved UDP Policy CDH1.2 outlines that non residential development will be permitted in Predominantly Residential Areas where it can be accommodated without detriment to the residential amenity of adjacent dwellings or the residential area as a whole. In particular account will be taken of: (i) noise, smell and nuisance; (ii) traffic generation and safety and accessibility by sustainable transport modes; (iii) parking; (iv) hours of operation; (v) proximity to dwellings; (vi) the scale of the proposal; and (vii) whether or not the character of the area will be changed.

The principle of the car showroom, sales facility, car repair / MOT and car storage has already been established through planning permission DC/066233. Therefore, the only matter being considered under this application is the extension of the previous applied operational hours through Condition 21.

The application site comprises an existing commercial business with the relevant historic planning permission. This Section 73 variation application relates only to the request to amend the wording previously included within Condition 21 relating to the permitted operational hours of the business. Therefore, the only matters that can be considered as part of this application are those directly linked to the operational hours of the business, and not those of the existing garage, as the permission for the wider use has already been granted and established. The matters under consideration are therefore, the potential impact of the additional working hours with regards to noise, lighting and traffic.

These will all be covered in more detail in the report below.

Impacts of Noise

The main part of the application site is allocated within the Town Centre/M60 Gateway (TCG4.3 : Didsbury Road) and is positioned between the M60 motorway and Didsbury Road, both of which are busy highways with a certain level of noise and traffic. Therefore, the provision of a car showroom and car repair / MOT use with its associated noise and general comings and goings was deemed to be acceptable in this location under application DC/066233.

It is acknowledged that the North Eastern portion of the site is allocated within a Predominantly Residential Area, as defined on the UDP Proposals Map. However, this is a particularly busy area with a certain level of noise associated with the traffic and many commercial businesses present. The application site is located between Didsbury Road and the M60 Motorway, with a number of local commercial businesses located within close proximity to the application site. Didsbury Road is a very busy road and is in the top 1% of noisiest roads in the country. Due to this, the area already experiences much higher levels of noise in relation to both general comings and goings and traffic noise.

It is acknowledged that the proposed extension of operational hours particularly between 7pm and 10pm Monday to Friday, would increase the vehicle movements at the site during these hours. However, the numbers of vehicle movements would not be significant, and due to the already busy and noisy existing environment, it is not considered that these additional vehicle movements would create a significant detriment to the amenity currently experienced by the residential properties on Craig Close, Didsbury Road or Brighton Road.

Members should also note that there is a previous consent on the application site (ref: DC/066230), for an A3/A5 café drive through development. Under this consent and the conditions attached, this business would have been permitted to trade from 8am to 11pm every day of the week (condition 31). This is one hour later than is now being proposed under this variation application. This was also every day of the week rather than just Monday to Friday. The hours were previously considered to be acceptable to the Council through the previous approval of this application. It is considered that these A3/A5 drive through business hours would have generated significantly more traffic than now anticipated from Mercedes-Benz, particularly for example the A3 use, where a large number of customers could be expected into the evening.

This application has been fully assessed by the Council's Environmental Health Officer and the comments can be seen in the Consultations section above. It is confirmed that the additional hours being requested are; an hour of sales on Mondays to Fridays, a 3 hour extension for servicing on Mondays to Fridays and new servicing hours on a Sunday (6 hours), and additional wording to state that deliveries outside of the permitted hours should only be undertaken in accordance with the approved Out of Hours delivery plan dated 30th November 2018 or any subsequent version agreed in writing with the Local Planning Authority.

In consideration of this case, the presence of Condition 26 attached to planning permission DC/066233, is very relevant in the consideration of the extended hours now being sought. This condition remains applicable, unaltered and is enforceable for the protection of residential amenity.

The wording of this condition and its contents were agreed previously as acceptable under the original permission based on the findings of the Noise Impact Assessment (NIA) by Wardell Armstrong. The current S73 application now being considered is for the Variation of Condition 21 (Opening Hours) only to allow the extension of the permitted operating hours for the site. As such, the other existing conditions attached to the original permission are critical in the consideration of the variation of condition 21 of DC/066233 and primarily to address public concerns.

Condition 26 is outlined in full above and includes the permitted maximum noise levels for the site during daytime and night time periods. The condition states that:

Noise shall not exceed 41dB LAeq 1h at receptors in the vicinity of the car showroom, and 42dB LAeq, 1h at receptors in the vicinity of the car preparation facility during the daytime;

and

Noise shall not exceed 31dB LAeq, 15minutes at receptors in the vicinity of the car showroom, and 30dB LAeq, 15minutes at receptors in the vicinity of the car preparation facility, during the night-time period.

For the purposes of interpreting Condition 26, daytime hours are classed as 07:00 to 23:00 and night-time hours are classed as 23:00 – 07:00. These are the definitions of daytime and night-time hours as provided within Policy SIE-3 of the Core Strategy. As outlined above, this condition remains both relevant and unaltered to any variation of opening hours.

On this basis, as the requested extended hours remain within the daytime and night-time periods outlined above, Environmental Health have confirmed no objections, providing these maximum noise limits are still complied with. These maximum noise levels are appropriate within an urban area such as this and take into account the existing background noise levels at the site.

In response to the objections raised that the site routinely ignores the law in its breaking of the 'Control of Pollution Act 1974' Part III in its wilful disregard of noise pollution legislation, including day, night, weekends, bank-holidays. The applicant has confirmed that they have not received any complaints about noise, and work within both the planning conditions on the site, and any relevant legislation. Furthermore, no issues have been raised within the Environmental Health response in relation to the Council receiving any such noise complaints about this site.

In response to the objections raised about noise and disturbance from the existing smoke and cycle shelters, the applicants are now proposing to add an additional smoking shelter away from residential properties along the western boundary shared with the Powerleague football site. This should reduce the number of people using the existing smoking shelter and therefore, reduce the overall disturbance from this area. The new location of the proposed shelter is shown on the submitted plan 070921 Rev A.

Despite the above proposals, further concerns were raised by the Heaton and Reddish Area Committee about the proposals for an additional smoking shelter and requested that the existing shelter adjacent to the existing residential properties be removed completely. The applicants confirmed that they were happy to work with the local Councillors and residents to resolve this matter. However, as this is not specifically linked to this planning application for the change in operational hours, this could be done outside of this application process.

The applicant has also provided a response to the objections raised stating that there is the sound of car horns being sounded around the site all day. The applicant has confirmed that technicians historically used this as a warning, but this is no longer the policy at this Stockport site. Following the receipt of these comments, the applicants have advised that they are addressing this internally, as due to the installation of mirrors on all blind corners, this shouldn't be happening.

Condition 21 also required the submission of an overnight delivery management plan, which was previously submitted to the Local Planning Authority on the 12th December 2018 and subsequently approved on the 29 March 2019 due to its contents being acceptable. Therefore, the requested amended wording to this final part of Condition 21 includes reference to this approved document, rather than requiring its later submission through the discharge of condition process.

On the basis of all the matters discussed above, in the absence of objections from Environmental Health and subject to appropriately worded conditions, it is considered that there would be no material impact of noise and disturbance from the additional requested hours over and above the existing situation. As such, the application is considered to be in accordance with Core Strategy Policy SIE-1 and saved UDP policy CDH1.2.

Impacts on Traffic and Highway Safety

Policy CS9 of the core strategy states that the Council will require that development is located in locations that are accessible by walking, cycling and public transport. Policy T2 of the core strategy states that developers will need to demonstrate that developments will avoid resulting in inappropriate on street parking that has a detrimental impact upon highway safety or a negative impact upon the availability of public car parking. Policy T3 of the core strategy states that development which will have an adverse impact on the safety and/or capacity of the highway network will only be permitted if mitigation measures are provided to sufficiently address such issues.

Para 109. of the National Planning Policy Framework (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.”

The application has been assessed by one of Council’s senior engineers with regards to Highways matters and the full comments can be seen in the Consultations section above.

It has been confirmed that the restriction on trading hours was imposed for reason of protecting the amenity of nearby residential properties and not due to any highway safety grounds. Notwithstanding this, Highways have fully assessed the submitted information and have confirmed that there are no objections from a highway perspective with the proposed changes to hours/variation to condition 21 on approval DC/066233.

As confirmed within the submission, given the extension of operating hours will be off peak, it is not considered that there would be a significant impact on the local transport network as a result of the proposed hours. In fact, by spreading the visits of customers over a longer period, it may potentially have a positive impact through limiting the number of customers at the site at any one time so they can remain socially distanced. There will be no additional traffic movements as a result of the proposed extended hours. On the contrary, if the applicant is encouraging customers to stay on site as outlined, this would mean vehicle trips are reduced. Customers are then only driving in and out of the site once, rather than coming to the site to drop off and then returning later in the day. The applicant has also confirmed that they are encouraging staggered appointments, again which should reduce traffic flow into the site at peak times.

There were detailed discussions at the Heatons and Reddish Area Committee in relation to staff parking off-site and the provisions Mercedes are putting in place to ensure that staff are not parking on nearby residential streets. Again, this is a wider site operational matter and is not directly related to this application in terms of the extended operational hours being sought. Questions were raised in relation to the proposals to rent 50 spaces at the adjacent Power League site. This is being investigated further by Highways and Planning Officers and will form part of the relevant discharge of condition process for the Car Park Management Strategy condition applied to planning permission DC/066233.

Therefore, having regard to the information provided and the comments of the Highway Engineer, it is considered that the proposed variation of operational hours would not have an unacceptable impact on the levels of traffic to and from the site, on highway safety, or a severe impact on the road network. The

proposal is therefore, considered to be in accordance with policies including, CS9, T1, T2 and T3 of the Stockport Core Strategy, and the National Planning Policy Framework (NPPF).

Lighting

Concerns have been raised in relation to the existing lighting at the site and the impact this is having on residential amenity, and how this would be extended if the requested additional hours were approved. This matter has been fully investigated by Environmental Health and the comments can be seen in the Consultation section above.

Members should note that issues surrounding the existing lighting at the site cannot be considered under this S73 application. If there are existing problems with light spillage and glare, then this should be reported to Environmental Health for their further investigation.

However, in direct relation to the additional hours being applied for, the applicant has confirmed that lighting in the multistorey car park is on sensors and so will only come on if triggered to save energy and reduce lightspill. In principle, the car deck will be open for use during any operating period, however, any additional movements on the car deck within the extended hours would be minimal. The car deck is used for head office parking, the majority of which are Mon-Fri office hour workers. This would not be a change due to the extended hours. The car deck is also used to store cars for sale. Although this application does seek consent for an additional hour for sales, Mon- Fri, cars would only be moved from the deck to the showroom for viewing by exception.

With regards to the extension of hours to the workshop, regardless of change of hours, cars coming into this site for servicing or work would only be placed in the car deck if they were awaiting parts. Again, it has been confirmed by the applicant that this relates to only a small number of all the vehicles seen each day. Furthermore, most cars awaiting parts would be moved from the workshop to the car deck via the internal tunnel.

It was requested at the Heaton and Reddish Area Committee if some form of screening could be implemented at the site to assist with lighting glare from the existing floodlights, particularly on properties on Craig Close. Again, this is a wider site operational matter and is not directly related to this application in terms of the extended operational hours being sought. However, the applicant confirmed they would be happy to listen to residents concerns about lighting and work to resolve them outside of this planning application process if possible.

Concerns were also raised by the Area Committee in relation to the potential impacts of lighting glare from vehicle headlights entering and leaving the site during the extended hours of 7pm to 10pm Mondays to Fridays. As outlined above, it is not considered that the number of vehicle movements between the extended operational hours would be significant enough to result in a detrimental impact on the amenity currently enjoyed by these properties. This is an urban area of the Borough in an already highly illuminated location, due to the existing street lighting on Didsbury Road, the existing floodlighting of the M60 motorway and the existing floodlighting at the numerous commercial premises within the local area. Therefore, the levels of illumination in this area are already higher than in more suburban locations. It is not considered that the lighting glare caused by the additional vehicle movements to the site between the hours of

7pm to 10pm would be significant enough to cause detrimental harm to amenity on the basis of noise or lighting glare and no objections have been raised by Environmental health in respect to this matter.

It is considered that the potential additional vehicle movements on the site in specific relation to the extended hours from a light spillage perspective during hours of darkness, would be a fraction of the already small number. Therefore, on the basis of the above information and in the absence of an objection from the Environmental Health Officer, it is not considered that the additional hours being applied for would have a significant detrimental impact from a light spillage perspective over the existing permitted operational hours, that would warrant the refusal of this application.

Other Matters

Landscaping and Energy

Concerns have been raised in relation to the quality of the landscaping completed at the development. Although this is not a matter for consideration under this application, it has been confirmed that the area in question is specifically planted to be 'wild', as are other areas around the site. The proposed landscaping has been previously approved and areas of wild flower are beneficial from an ecological perspective. The applicant has confirmed however, that they will investigate what management can take place in this area to improve its appearance.

In relation to the energy that will be required for the additional working hours proposed and the potential impact on the environment, it is not considered that the minimal hours being applied for would have a significant impact over and above the existing use. The original planning application considered under application DC/066233 included a sustainability checklist and a full energy statement. This confirmed that the development would achieve a checklist score of gold and a resulting BREEAM of very good. Therefore, the development was deemed to be acceptable and compliant with Council's policies relating to energy efficiency.

Car Parking

As with the matters of landscaping and energy above, the levels of car parking provided at the site were fully considered as part of the original planning permission for the site and were considered to be acceptable. This S73 application does not seek permission to vary the current parking arrangements in any way and as described above, the extended hours being applied for should allow lower numbers of people / cars to be on the site at any given time. Notwithstanding this, the applicant has responded to this point as follows:

LSH have been working to resolve the issues of staff parking on local roads. The following measures have been introduced to address the issues:

- *Since opening a 120 space parking facility at Shawheath has been rented, which offers free parking to all employees that are not eligible to park on site. A shuttle bus runs regularly transporting employees back and forth from the parking facility to the site*

- LSH has recently renewed the above lease at Shawheath for a further three years
- LSH has also recently increased the shuttlebus frequency from Shawheath to site
- LSH has come to an agreement with Powerleague to rent some spaces from them to provide parking much closer to site
- Any employee found to be parking in the local streets will receive disciplinary action
- All Stockport employees have received communication regarding the complaints and impact of parking locally.

Land Ownership

It has been raised through the notification exercise that the site edge red submitted with the application includes land that forms the highway on Didsbury Road. Clarification has been sought in relation to the owner of this land.

Following this query, it had been discovered that the wrong Certificate of Ownership had been signed on the submitted application form, with Certificate A being completed rather than Certificate C as was completed in the original permission. This has now been subsequently rectified by the applicant, Certificate C has now been signed and submitted and the appropriate Notice has been placed in the Press as required.

The change of ownership does not really make any material difference to the consideration of the application. The applicant for any planning application does not need to own the property or land on which they are applying for permission, providing that the correct Certificate of Ownership has been signed on the application form and the appropriate notice has been served on the owner of the land or property. This does not mean that the planning permission can then be implemented without the land or property owners consent, as planning does not override this civil law.

In this case, the wrong Certificate of Ownership had been completed on the application and this has been pointed out to the applicant. However, this does not affect whether the proposed variation to the previously approved operational hours would be considered to be acceptable or not. The application has still been assessed against the relevant saved UPD and Core Strategy policies.

The relevant Certificate and Notices will include the required 21 day period for these to expire, which remains outstanding at the time of writing this report and will need to expire prior to any final planning decision being issued. However, these will have expired by the time of the Committee meeting on the 11th November.

SUMMARY

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through decision-taking. Paragraph 7 of the NPPF establishes three dimensions to sustainable development – economic, social and environmental and Paragraph 8 of the NPPF indicates that these should be sought jointly and simultaneously through the planning system.

There is an established precedent at the site for the provision of commercial businesses with a range of different operating hours. It is considered that with

appropriate mitigation measures secured through the existing conditions attached to the original permission and the reworded Condition 21, the existing car showroom and car repair business use can operate within the hours requested whilst protecting the residential amenity of the accommodation located close by. It is not considered that the extended hours sought would have a significant detrimental impact on the amenity of surrounding residential properties in terms of noise, vehicle movements, lighting glare or other operational requirements.

Overall, in the absence of any objections from consultees, the proposal is considered to comply with the development plan and the NPPF for the reasons set out within the report and therefore, the NPPF requires the development to be approved without delay.

Therefore, the following amended wording of the condition is considered to be acceptable (amended text in **bold**):

Proposed Reworded Condition 21

- *Sales shall only take place between 08:00 and **20:00** Monday to Friday, 08:00 and 18:00 on Saturday and 11:00 and 17:00 on Sunday*
- *Servicing of vehicles shall only be undertaken between 06:00 and **22:00** Monday to Friday, 06:00 and 17:00 on Saturday and **11:00-17:00** on Sunday*
- *Workshop doors shall remain shut whilst any servicing of vehicles is undertaken between 06:00 and 08:30, and between 19:00 and 22:00.*
- *The Body and Paint Centre shall only be operational between 08:00 and 18:00 Monday to Friday, 08:00 and 14:00 on Saturday and not at all on Sunday.*
- *Ancillary office functions including the call centre shall only operate between 06:00 and 19:00 Monday to Friday and 08:00 and 19:00 on Saturday and Sunday*
- *Deliveries shall only take place between 07:00 and 19:00. **Deliveries outside of these hours should only be undertaken in accordance with the approved Out of Hours delivery plan dated 30th November 2018 or any subsequent version agreed in writing with the Local Planning Authority.***

RECOMMENDATION

Grant

HEATONS AND REDDISH AREA COMMITTEE (18.10.2021)

The Planning Officer introduced the application and highlighted the pertinent issues of the proposal.

No questions were asked of the Planning Officers by Members at this stage.

Two representatives from the applicant then spoke about the following points:

- Proud that their state of the art flagship site is in Stockport;
- One of largest Mercedes Benz sites in Europe, providing best in class customer experiences;
- Its transformed a derelict and contaminated site that now offers high quality jobs for local people;
- Customer expectations are to have more flexibility and to be able to access services whenever they want and this application is to enable the provision of this flexibility;
- No objections from Highways or Environmental Health;
- Additional operating hours can be delivered without a detrimental impact on their neighbours;
- All of the original conditions attached to the original permission including maximum noise levels are still in force;
- Are aware of the concerns raised by local residents in relation to the general operations at the site and always endeavour to be good neighbours and have listed to their concerns where possible;
- Introduced a free 120 space off site car parking facility for staff with regular shuttle buses to the site;
- Also recently agreed to rent 50 spaces from Power League for additional staff parking to take staff cars off the local streets;
- Proposed a new smoking shelter at the site in direct result of the objections raised to this application that would be sited away from local residents;
- Continue to listen to the concerns of local people and will address these where possible;
- However, these concerns are not relevant to this application which is simply to seek permission for extended operational hours.

The Members had a number of questions for the applicant including the following:

- Councillor McGee asked about the statement in relation to renting parking spaces from Power League and if they were closing while the spaces were rented to Mercedes staff? This is because that would then render their planning permission invalid.

The applicant responded to say that Power League tend to operate more in an evening after work and school and the spaces are being rented between 6.30am and 17.00 pm so this should not impact on their business.

- Councillor Fitzpatrick thanked the applicants for their presentation and do welcome Mercedes to the Ward. It is without doubt an improvement over what was there previously. However, this application has to be taken on its own merits, and asked if the applicant had been in dialogue with the Council's Highways officer about the proposals to rent spaces from Power League and has a new Car Park Management Strategy been submitted with this proposal included?

The applicant responded to say that this has now been included within the updated Car Park Management Strategy that has been submitted to the Council so the Highways officer is aware of this proposal.

- Councillor Foster raised the issue that Power League leases the land in question from the Council and it may well be both in Planning terms and in lease contract terms that Power League may not have the power to rent the spaces to Mercedes, let alone there being 50 additional cars using these local streets within local residents being aware of it?
- Councillor Foster then asked the applicant to provide some further information about light spillage from the site, particularly in relation to the impacts to the residents on Craig Close?

The applicant replied to say that the multi storey car park building is the body shop paint department (BPC) and the 3 floors above the first floor are all internal storage only. Vehicles are prepared on the first floor but those above are for internal parking. With what is being requested through the extended operational hours, it is all for retail purposes so the BPC would not factor into these elements. Its more about handling the customers at the front end of the site rather than their internal processes at the back end of the site. There would not be an increase in traffic going through the BPC wouldn't change in an evening.

- Councillor Fitzpatrick asked about the comments made about the smoking shelter and if the proposals are to remove the existing one and relocate it?

The applicant responded to say the proposal is not to remove the existing shelter, it is to site another shelter in a location away from residential properties to reduce the number of people having to use the existing one.

- Councillor Fitzpatrick responded to say that he did not feel that would satisfy the residents that live adjacent to the existing shelter. They would probably want it to be moved well away from their gardens and asked if the applicants could agree that now?

The applicant agreed to take it away from the meeting and this would be looked at further. They want to be a good neighbour and have a good working relationship with the neighbours.

- Councillor Fitzpatrick then asked about the possibilities of screening to protect the residents from cars moving on the ramps during the extended hours.

The applicant confirmed again that they would be happy to work with Councillors and the residents to resolve any of these complaints. It was confirmed that there has been a reduction in the number of complaints received by Mercedes since January and they are going to continue working on this and building relationships with the neighbours to improve things.

- Councillor Fitzpatrick then made a comment that if the rented spaces at Power League went ahead, there may then be a shift in complaints from the Mercedes site to the residential streets around Power League.

Councillor Butler then asked the applicant about the public liaison and if there was someone employed within the business that people can contact directly?

- The applicant responded to say they did have a direct point of contact for residents to get in touch with.

There were no members of the public present speaking against the application.

The Members then debated the proposals and spoke about the following matters:

- Councillor McGee acknowledged the site that was there historically and the problems it caused by how it was operated;
- The Mercedes proposals were welcomed by everybody;
- However, people were under the impression that it would be operated in the same way as many other large garages that operate around Stockport including normal hours to 7pm with some Saturday and Sunday hours too;
- It does only relate to a small number of properties that would be affected but their amenity has to be protected;
- The danger here is one step too far with the hours that are proposed;
- Once we let this go, there wouldn't be any control;
- Raised the issues of the rented spaces at Power League and the shift of impact to other local roads;
- Reluctant to agree to the requested extended hours, particularly to 10pm at night;
- 7pm is considered to be reasonable and the Sunday servicing would probably be acceptable due to the existing sales hours on this day;
- Every night until 10pm would not be acceptable.
- Councillor Foster mirrored the concerns of Councillor McGee;
- Mercedes have done a lot to mitigate the impacts of the business but is this one step too far.
- Balance between the needs of business and needs of residents have got to be finely considered.
- Councillor Foster then suggested that it would be beneficial for the site to be visited by Planning and Highways Regulatory Committee, to assess the juxtaposition between where the activities would be taking place and the houses;
- This is particularly where vehicles are exiting the site and the housing facing the entrance on Didsbury Road will receive car lights into their houses;
- It was acknowledged that this would only be a small number of vehicles, but these are vehicle movements that do not exist currently.
- Need to consider if the quality of life of those residents would be adversely affected by the proposals.
- Councillor Fitzpatrick acknowledged the restriction in terms of Planning and that they can only deal with applications presented to them;
- The Committee is not in a position to negotiate some of the things that could be done to improve the situation for residents;
- If the application was rejected, given the evidence that is within the officers report, it is likely that the applicant would appeal the decision with a strong chance of winning and to be awarded costs;
- Councillor Fitzpatrick confirmed he was happy to second the motion by Councillor Foster to defer the application to Planning and Highways Regulatory Committee for a site visit.

The 3 Heatons South Ward Councillors asked for it to be highlighted to the Planning and Highways Regulatory Committee for them to consider the issues around the impact of the proposals on residential amenity in relation to shielding, moving the smoking shelter, dealing with light spillage, for noise and parking, additional vehicle movements and consider the impact on the residents that live around the site. If the above concerns cannot be addressed, then the Ward Councillors would be minded to refuse the application.

Councillor Driver spoke as a member of the Planning and Highways Committee to highlight that the site visit would take place in a morning, so the impacts of additional light spillage from the additional hours being applied for would not be able to be seen at this time of day. However, they would be happy to have a site visit.

Councillor Driver then made a suggestion about the possibility of looking at a temporary permission for the extended hours, to see what the potential impacts would be and if they did cause an impact, this temporary approval could be rescinded on the basis of evidence.

Councillor Fitzpatrick agreed that whilst this seemed to be a good suggestion, from a business perspective this would be really difficult to manage to introduce something and then reverse it.

Advice was sought from the Planning Officer, who confirmed that application in front of Committee is for a permanent change to the proposed operational hours, and not for a temporary extension, and therefore a decision has to be made on this basis. The different options available to Members are to refuse the application as presented, to defer to Planning & Highways for a site visit as suggested, or to defer the application back to officers to possibly re-negotiate the hours or the temporary period as suggested. However, if the applicant did not agree to amended terms, then it would be presented back to the November meeting in exactly the same format.

Therefore, it was unanimously resolved to defer the application to the Planning and Highways Regulatory Committee for a site visit to be completed.