

PLANNING APPLICATION NUMBER: P11/0098

Type of approval sought	FULL PLANNING PERMISSION
Ward	CASTLE & PRIORY
Applicant	MR H. FAITH
Location:	REAR OF BATHROOM HEAVEN, 4, THE BROADWAY, DUDLEY, WEST MIDLANDS, DY1 4AN
Proposal:	CHANGE OF USE OF BATHROOM HEAVEN REAR CAR PARK TO HAND CAR WASH (SUI GENERIS) (RETROSPECTIVE) (RESUBMISSION OF REFUSED PLANNING APPLICATION P10/1553)
Recommendation summary:	REFUSE

SITE AND SURROUNDINGS

1. This is a large tarmac car park situated at the rear of Bathroom Heaven, which wraps around the southern and eastern part of the car park. To the west is a three storey vacant office building and adjacent to that is a large car park belonging to Dudley College. To the north is an animal hospital. The site is situated within Dudley Town Centre but is outside the core retail area. It is also located within Dudley Town Centre Conservation Area and is in close proximity to the Castle Hill Landscape Heritage Area.

PROPOSAL

2. The application is for a temporary (three year) change of use of the car park at the rear of Bathroom Heaven to a hand car wash (sui generis). This is a retrospective application. The submitted plans indicate that No. 4 car parking spaces would be retained specifically for parking for Bathroom Heaven. The remainder of the car park would be subject to the change of use. The valeting would take place in the northern part of the car park and the storage of equipment would be within an existing timber building in the north eastern corner of the car park.
3. This application is retrospective and the description of the change of use is no different from the application (P10/1553) which was refused on 18th January 2011 for the following reasons:

‘The development, if approved, would reduce the size of the existing car park which is used by the adjacent business, to an unacceptable level leading to queuing along Tower Street and onto The Broadway to the detriment of the free flow of traffic and highway safety. Contrary to Policies DD6 and AM14 of the adopted Dudley Unitary Development Plan’

‘The drainage of effluent from the hand car wash facility directly into the highway drainage system within Tower Street rather than travelling through an interceptor and directly to the foul system has the potential to pollute local watercourses. Furthermore, in icy conditions, the run-off, particularly at the entrance of the car park would present a danger to vehicles and pedestrians. As such the application is contrary to Policies DD6 and EP3 of the adopted Dudley Unitary Development Plan’

4. Supporting information which differs from the previous application comprises:
- A letter of support from the Showroom Manager of Bathroom Heaven. This states that the car park is large and is more than adequate to support both a carwash and their customers. Noting that they tend to have only one or two cars belonging to customers parked on site at any one time. The letter contends that there have not been parking, access and queuing problems even during the busy periods and that they have been assured that the applicant has every intention of making adequate arrangements for the of the site drainage. Finally, it states that during the current financial climate, this additional income is essential for the success of the business;
 - A plan has been submitted that indicates the intended location of a mud/petrol interceptor and metal grid/drainage channels to be installed on the site. Although no construction details are provided.

HISTORY

5. Relevant History

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/65/305	Rebuilding of workshop and offices and extension of showroom	Approved	16/06/65
DB/73/12365	Extension to existing showroom	Approved	13/07/73
P10/1553	Change of use of car park to a hand car wash (sui generis)	Refused	18/01/11

PUBLIC CONSULTATION

6. The application was advertised by means of letters sent directly to adjacent and nearby businesses and residential dwellings and also by a Site Notice and an advertisement within the Express and Star Newspaper. Two letters of objection have been received from a local resident. One describes the current activities taking place on the site the other (with photographs) is accompanied by a petition containing 175 signatures. The following points are raised by the letter and petition:

- The re-submission does not negate the original reason for refusal. On safety grounds alone it should be refused. It would be contrary to Policies DD6, AM14 and EP3 of the adopted Unitary development Plan and Policy HE4;
- The impact upon the Conservation Area has not been given the accord it demands. Do not agree that the use would not detract from the character. There is a duty to 'safeguard and enhance' such areas and resist applications which would be 'detrimental' as per UDP Policy HE4;
- Customers in cars and customers walking to the existing Bathroom Heaven would conflict with the car wash facility with cars waiting, reversing and moving around the car park;
- Queuing of cars back onto the highway;
- The car park drains onto the highway and waste products would enter public drains. Dangers of pedestrians walking over wet and iced areas;
- Pools of water within the car park also represent a safety issue in cold weather;
- Dual use of a car park with a car wash facility is not acceptable as it is dangerous;
- Use of detergents and waste products may cause a nuisance, with safety issues, to Bathroom Heaven customers;

- Tower Street occupies a cross-roads position with The Broadway (Part of the Strategic Highway Network). Tower Street also provides access to a lower ground car park for Kelvin House (currently vacant three storey office building). There is also an access gate to a large car park at the end of Tower Street. A lack of sufficient car parking within the site is dangerous and there is real potential to lead to queuing for the waiting cars along Tower Street which would impede access to existing car parking leading to queuing into the Broadway to the detriment of highway safety.
7. A letter of objection has also been received from the Chief Executive of Dudley Zoo who states that the hand car wash is an inappropriate use of land within the Conservation Area. That there are environmental issues in relation to the disposal of waste water and that there will be some difficulties experienced in terms of traffic movement. The site is also important to the overall development of Castle Hill, and it would not be the best use of land in relation to tourism.

OTHER CONSULTATION

8. Group Engineer - Development - The floorspace of Bathroom Heaven (A1 non food) requires a maximum of 50 parking spaces (1 space per 20 sqm). TRICS was interrogated and an average max parking accumulation for A1 non food use at edge of town centre sites was found to be 28 spaces. The site does not therefore have enough parking capacity to operate the dual uses. A site visit made on Tuesday 14th December 2010 revealed the car park to be almost full and the car wash facility was not operating. This leaves concerns how customers vehicles and customers walking to the existing unit will conflict with the proposed car wash facility, with vehicles waiting, reversing and manoeuvring around the car park. Also of concern is the potential of queuing back onto the Highway. A further site visit on 4th March 2011 revealed the surprising condition of the car park which has a poor surface and there are damaged un-maintained drains/ semi constructed drains that had been left in a state of disrepair for some time. Waste products from the washing drain into the highway drainage and then into a water course. Also there are pools of water which represent a safety issue with pedestrians walking over wet areas or potentially iced over arrears of the car park in colder weather. Also of concern is the potential for customers to Bathroom Heaven being sprayed with detergents and waste products. If approved, a condition would be required to regularly maintain all drainage chambers to prevent run-off onto the public highway. In conclusion, a dual use of a car park and car wash facility is not acceptable.

9. Head of Environmental Health and Trading Standards - no adverse comments in terms of noise.
10. Environment Agency – the use could pose an unacceptable risk of polluting controlled waters although we consider this application to pose a low risk to the environment. Only surface water from roofs and paved areas not accessible to vehicles, should be discharged to any soakaway. watercourse or surface water sewer. We consider that water arising from car washing is trade effluent and must be disposed of by a connection to the foul sewer, which must be with the consent of Severn Trent PLC. Detergents entering oil interceptors may render them ineffective and must be hydro geologically separate from any area where car washing is undertaken. A closure valve should be installed at the oil separator outlet to contain any polluting material in the event of an emergency and closure valve should be installed in the surface water drainage system to contain any polluting material in the event of an emergency.
11. Severn Trent – no objection subject to a condition that development shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

RELEVANT PLANNING POLICY

12. National Planning Guidance
PPS5 – Planning for the Historic Environment
PPG 13 - Transport
13. Regional Planning Guidance

The High Court Decision on 10th November 2010 in respect of the challenge by Cala Homes (South) Ltd (2010 EWHC 2866) quashed the Government's decision on 6th July 2010 to revoke the Regional Strategies. As a consequence the West Midlands Regional Spatial Strategy forms an ongoing part of the development plan.

The Chief Planner at the Department for Communities and Local Government wrote to all local authorities setting out that the Secretary of State expected them, and the

Planning Inspectorate, to have regard to his letter of 27th May 2010, announcing his intention to abolish the Regional Strategies, as a material consideration in planning decisions.

However, as the Regional Strategy still forms part of the development plan until it is abolished the following policies are considered relevant to the material consideration of this planning application:

- Policy QE3 – Creating a high quality built environment for all

14. Black Country Joint Core Strategy

CEN2 Hierarchy of Centres

DEL1 Infrastructure Provision

ENV 2 Historic Character and Local Distinctiveness

TRAN2 Managing Transport Impacts of New Development

15. Adopted Dudley Unitary Development Plan

Policy DD2 – Mixed Use

Policy DD4 – Development in Residential Areas

Policy HE3 - Castle Hill Special Landscape Heritage Area

Policy HE4 – Conservation Area

Policy DTC2(V) Block 6 – Broadway/Castle Hill

Policy SO2 – Linear Open Space

Policy EP3 - Water Protection

Policy EP7 – Noise pollution

16. Supplementary Planning Guidance/Documents

Parking Standards and Travel Plans Supplementary Planning Document

ASSESSMENT

Key Issues

- Background
- Noise and disturbance
- Impact on the Conservation Area
- Access and parking

- Discharge of water
- Planning Obligations

Background

17. The first retrospective planning application for a hand car wash on this site P10/1553 was refused on 18th January 2011. Following this decision authorisation for enforcement action to secure the cessation of such activities on the site was secured on 7th February 2011. However, this was not acted upon because on 9th February this current application was registered which contained some new information. It was decided therefore to delay taking enforcement action until the outcome of this was known.

Noise and disturbance

18. The site is situated within Dudley Town Centre but outside the core retail area. There are vacant offices directly to the west on the opposite side of Tower Street, an animal hospital to the north and the offices of the Dudley and West Midlands Zoological Society abuts the side flank of the Bathroom Heaven buildings. As such, although this is a mixed area and there are dwellings within the vicinity of the site, there are none which are close enough to be affected by noise and disturbance from the hand car wash.

Impact on the Conservation Area

19. 'Bathroom Heaven' lies within the Dudley Town Centre Conservation Area and the building fronts onto the Broadway such that activities on the car park at the rear are not able to be viewed from most perspectives. The Council has a duty to consider whether planning proposals would have the effect of 'preserving or enhancing' the character and appearance of a conservation area or conversely would have a negative impact.
20. The letters of objection and petition submitted against the development cite the negative impact of the development on the character of the Conservation Area. The letter from the local resident also asks for us to re-consider our thoughts on this matter. However, on the basis that there is no built development and the use is well screened from view, an objection could not be substantiated on conservation grounds. Whilst the proposal clearly would not enhance the Conservation Area it is considered that it could

reasonably be said to preserve its current character in that it effectively has no material impact beyond the immediate vicinity.

Access and parking

21. In terms of parking, the site plan indicates 4 No. parking spaces for the staff and customers of Bathroom Heaven. A letter from Bathroom Heaven states that only two customer parking spaces are required on the site at any one time. However, a site visit by the Group Engineer in December revealed the car park to be almost full and the car wash facility was not operating. The agent has confirmed that the floor area of the buildings is approximately 1,100 sq m. According to the Parking Standards and Travel Plans Supplementary Planning Document a building of this size with an A1 non food use at the edge of town would have a maximum parking requirement of 50 car parking spaces. TRICS suggests a more realistic figure of 28 spaces. The car park is currently marked out around its perimeter with approximately 20 spaces and could possibly accommodate several more within the centre.
22. The application would only set aside 4 No. parking spaces specifically for Bathroom Heaven. Although the showroom manager at Bathroom Heaven has stated that there is a low volume of customers, detailed evidence of this has not been provided. It is also important to recognise that this unit could be occupied at any time in the future with another A1 use with a high parking requirement. On this basis it is concluded that the site does not have the capacity for a dual use as the hand car wash would significantly reduce the amount of car parking available on the site.
23. Access to the car park is off Tower Street which occupies a cross-roads position with The Broadway. The Broadway forms part of the Strategic Highway Network. Tower Street also provides access to a lower ground car park for Kelvin House which is a currently vacant three storey office building. There is also an access gate to a large car park at the end of Tower Street. A lack of car parking within the car park has the potential to lead to queuing for the waiting cars along Tower Street which may impede access to existing car parking mentioned above and may lead to queuing onto The Broadway to the detriment of highway safety.
24. There are also concerns that customers to Bathroom Heaven would conflict with the car wash facility in terms of parking and walking to the premises as there would be an

intensity of cars waiting, reversing and generally manoeuvring around the car park. Spray from detergents and waste products may also cause a nuisance to Bathroom Heaven customers.

Discharge of water

25. The application is retrospective. A recent visit by the Group Engineer has revealed the poor surface of the car park, pools of water, damaged un-maintained drains and semi constructed drains that are in a state of disrepair. He has confirmed that the water and effluent produced from the washing of cars, drains directly onto Tower Street and into what is likely to be the surface water drainage system. Obviously this has implications for the pollution of local water courses.
26. An additional plan has recently been submitted by the agent that indicates the intended location of a mud/petrol interceptor and metal grid/ drainage channels to be installed on the site. No construction details are provided. The plan states that a licence from Severn Trent will be obtained before the works commence in order to ensure the correct method for the discharge of effluent from a site. Both the Environment Agency and Severn Trent have no objection to the application provided that adequate drainage facilities are installed.
27. Now that the agent has submitted more details regarding the drainage of the site it is considered that a condition requiring further details to be submitted and a satisfactory means of drainage implemented would be sufficient to overcome the second reason for refusal of the previous application P10/1553.

Planning Obligations

28. The proposed development would normally have a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community with regard to Transport Infrastructure Improvements. However, as the applicant has applied for a temporary permission, the planning obligation would not be a requirement.

CONCLUSION

29. The site is situated within Dudley Town Centre but is outside the core retail area. It is also located within Dudley Town Centre Conservation Area and is in close proximity to

the Castle Hill Landscape Heritage Area. Since this application involves no built development and is well screened from view, it is considered that an objection could not be substantiated on conservation grounds. Despite the car park being used in association with the adjacent Bathroom Heaven, data has been provided regarding the parking demands of that business. There is concern therefore that the change of use would remove valuable off-street parking spaces and would lead to on-street queuing by waiting vehicles. This would be to the detriment not only of the free flow of traffic along Tower Street, a narrow cul-de-sac which contains accesses to two other private car parks but also along The Broadway, which forms part of the Strategic Highway Network, to the detriment of highway safety. The application is retrospective and a lack of adequate drainage on the site currently leads to run-off water from the washing process crossing a significant part of the car park and leading directly to Tower Street and into its highway drainage system. However, details have now been provided regarding this matter which could be resolved by condition. As such the application would be contrary to Policy DD4 of the adopted Dudley Unitary Development Plan and Planning Policy Guidance Note 13.

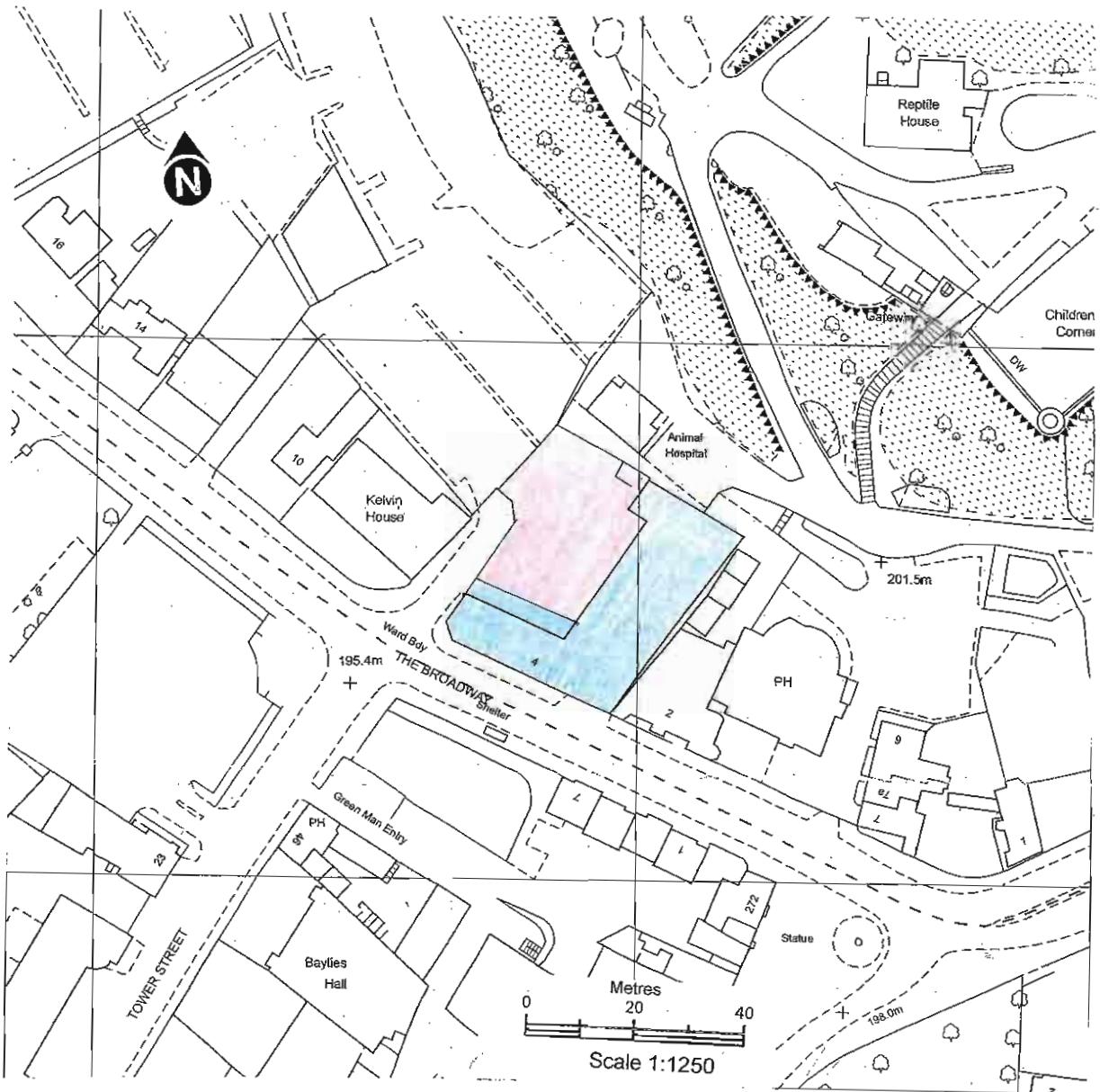
RECOMMENDATION

30. It is recommended that the application is refused for the following reason:

Conditions and/or reasons:

1. The development, if approved, would reduce the size of the existing car park which is used by the adjacent existing business, to an unacceptable level leading to queuing along Tower Street and onto The Broadway to the detriment of the free flow of traffic and highway safety contrary to Policy DD4 of the adopted Dudley Unitary Development Plan and Planning Policy Guidance Note 13.

PLAN TWO OF TWO.



SITE LOCATION PLAN.

PROPOSED CAR WASH SITE AT
REAR OF BATHROOM HEAVEN
4 THE BROADWAY, DUDLEY DY4 4AN.

M. Gay. Tel. 01902 762829.

PLAN ONE OF TWO.

KELVIN HOUSE

CAR PARK

NO VEHICLE EXIT OR ENTRANCE

RECEIVED
26 JAN 2011

TOWER STREET

TOWER STREET (CUL DE SAC)

STAFF

ANIMAL HOSPITAL

THE BROADWAY

164

BATHROOM HEAVEN

OUT.

20M.

VALET

VALET

30M.

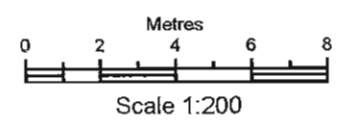
Proposed Site

CAR WASH STORES

EXIT.

BATHROOM HEAVEN CO. LTD.

SITE LAYOUT



PROPOSED CAR WASH. REAR OF BATHROOM HEAVEN LTD
4 THE BROADWAY, DUDLEY, DY1 4AN.