

**4/02843/16/FUL - CONTINUATION OF USE OF THE SITE AS A CAR WASH INCIDENTAL AND ANCILLARY TO THE GARDEN CENTRE (RESUBMISSION OF 4/04024/15/FUL). CHIPPERFIELD HOME & GARDEN CENTER, TOWER HILL, CHIPPERFIELD, KINGS LANGLEY, WD4 9LH.**

**APPLICANT: Wyevale GC and GFL Management.**

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[Case Officer - Rachel Marber]

## **Summary**

### **The application is recommended for approval**

The application seeks retrospective planning permission for the retention of a car-wash facility within the main car park area of the Chipperfield Home and Garden Centre. The principle of development in respect of the siting of the car-wash facility within the boundary curtilage of the garden centre is considered acceptable as the facility is incidental to the primary use of the site and therefore no material change of use has occurred. It is further considered that the proposed structures involved in the washing of vehicles form appropriate development in the Green Belt due to the occupying of previously developed land. The proposed structures are considered to have no greater visual impact than if the area was used as overspill parking, or as previous, storage. As such, the scale, height, design, form, coverage and siting of the car-wash facility and associated structures, are such that they do not result in unacceptable harm to the openness, purpose or visual amenity of the Green Belt. In addition, the retrospective proposal is not considered to have an undue impact upon the residential amenity of the neighbouring properties or safety and operation of the adjacent highway. Furthermore, the social and economic benefits of job provision from the use weigh in favour of the application. The proposed development therefore complies with the National Planning Policy Framework (2012), policies CS5, CS11, CS12 and CS31 of the Core Strategy (2013) and saved policies 46, 58 and appendices 3 and 5 of the Local Plan (2004).

## **Site Description**

The application site is located within the boundary curtilage of Chipperfield Home and Garden Centre, Tower Hill, Chipperfield. The proposal area is towards the north west of the site and located on part of a disused area of car parking which was formerly used for storage. The site lies within the Metropolitan Green Belt.

## **Proposal**

Retrospective planning permission is sought for the continuation of use of part of the storage area/car park as a car wash. Due to the ancillary nature of the car wash, and thus no material change of use, this permission seeks consent only for the following structures:

- Office container
- Fencing
- Translucent wash screens
- Hard standing and road markings

## Case History

### Legal Agreement

Chipperfield Home and Garden Centre was granted planning consent in 1988. This consent included a S106 (previously known as S52) Legal Agreement of which clause 2s specified the following:

“The circulation road and car parking areas edged in yellow on the plan annexed hereto shall not be used for any purpose other than the circulation and parking of vehicles visiting the site.”

An application to vary this clause and thus legally use the site as a car wash is currently pending consideration under application reference: 4/02626/16/VAR. We have received confirmation from the Case Officer for this application that the removal of clause 2s is acceptable. Having taken advice from Council’s Legal Department approval has been given to determine this application.

### Refusal of Previous Permission and Judicial Review

Permission for use of the site as a car wash was refused on the 22<sup>nd</sup> of February 2016. The reasons for this refusal were as follows:

*“The application site is located within the Green Belt where there is strict control over development. The proposed use is not within the specified types of development permissible within the Green Belt and no compelling circumstances have been put forward to justify a departure from this policy.*

*By virtue of the nature and location, the proposed use would have a significantly greater visual impact on the site than existing and former uses and would therefore have a significant adverse impact on the character and appearance of the countryside and Green Belt. Furthermore, the stationing of proposed car washing facility would intensify the use of the site. As such the proposal is contrary to Policies CS5, CS11 and CS12 of the Dacorum Core Strategy and the National Planning Policy Framework.”*

Failure to cease activity on the site resulted in an Enforcement notice being served. An appeal against this refusal was submitted however; as the documents were not submitted within the 6 month deadline the appeal was not processed. The applicant has taken the Inspectorates’ decision to Judicial Review.

### Amendments to current scheme

The current application has been amended from the previously refused scheme. The following amendments have been made:

- Removal of double canopy drying area;
- Removal of Pergola, customer waiting area;
- Removal of Storage container; and
- Staff and Operations cabin reduced in size.

## Referral to Committee

The application is referred to the Development Control Committee due to contrary views of Chipperfield Parish Council.

### Relevant History

- 4/02626/16/VAR VARIATION OF LEGAL AGREEMENT ATTACHED TO PLANNING PERMISSION 4/0096/88  
Delegated  
**Pending Consideration**
- 4/00966/16/RO C VARIATION OF CONDITION 11 ATTACHED TO PLANNING PERMISSION 4/00096/88/FUL (GARDEN CENTRE GLASS HOUSE AND CAR PARKING)  
Delegated  
**Pending Consideration**
- 4/04024/15/FUL CHANGE OF USE OF PART OF EXISTING EXTERNAL STORAGE/CAR PARKING AREA (A1) TO CAR WASH AND VALET SERVICE, INSTALLATION OF DOUBLE CANOPY, WASH SCREEN, CABINS FOR OFFICE/REST ROOM, SECURE STORAGE, PERGOLA, LANDSCAPING AND FENCES  
Refused  
22/02/2016
- 4/01191/98/4 HORTICULTURAL PLANT SHADE  
Granted  
27/08/1998
- 4/00425/95/4 PLANT PROTECTION CANOPY AND EXTENDED CAR PARK (RESUB)  
Granted  
07/06/1995
- 4/00176/95/RES SUBMISSION OF LANDSCAPING DETAILS PURSUANT TO P/P 4/0096/88 (GARDEN CENTRE, GLASSHOUSE AND CAR PARKING)  
Granted  
08/03/1995
- 4/01205/94/FUL ERECTION OF PLANT PROTECTION CANOPY AND EXTENSION OF CAR PARK  
Refused  
20/10/1994
- 4/00371/91/4 NON ILLUMINATED ENTRANCE SIGNS

Granted  
19/04/1991

4/00890/90/4 TWO BEDROOM BUNGALOW (RESUBMISSION)  
Refused  
15/08/1990

4/02017/89/4 DETACHED DWELLING  
Refused  
01/02/1990

## **Policies**

### National Policy Guidance (2012)

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

### Adopted Core Strategy (2013)

CS5 - Green Belt  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS31 – Water Management

### Saved Policies of the Dacorum Borough Local Plan (2004)

Policy 46 – Garden Centres  
Policy 58 - Private Parking Provision  
Appendix 3- Gardens and Amenity Space  
Appendix 5- Parking Provision

## **Constraints**

Greenbelt  
Special Control for Advertisements

## **Summary of Representations**

### Chipperfield Parish Council

## **Objection**

*"CPC do not support this application due to the site being Green Belt."*

### Cllr Riddick

**Objection** on Green Belt grounds

## Environmental Health

### **No Comment**

I have no adverse comment to make regarding this application

### **Comments received from local residents:**

#### **Redwood House, Tower Hill**

*"Initially the car valet operators did display additional signage (swing sign) outside on the grass verge (near the road, 7 days per week) however I confirm they have not been doing so for many weeks now. Providing they continue not displaying this additional signage and providing the relevant government/council departments i.e. Environment Agency, Environmental Health and Planning Department can assure me that there will never be an increase in noise and that no cleaning chemicals shall enter our land i.e. detergents and water blown in the wind then I do not object to their planning application."*

### **Key Considerations**

The main planning considerations in the determination of this application are:

1. The Principle of the Development
2. The Principle of Development within the Green Belt
3. Impact on Character and Appearance of the Area
4. Effect on Amenity of Neighbours
5. Highways Safety and Parking Provision
6. Other Material Planning Considerations
  - (i) Social and Economic Impacts
  - (ii) Flood and Drainage
  - (iii) Appeal Decisions
  - (iv) CIL and other Contributions

#### **1. Principle of Development**

Saved policy 46 of the Local Plan (2004) states no addition to garden centre buildings will be permitted unless the development is very small in scale and has no detrimental effect on the character and appearance of the countryside.

The proposed use of the car wash would add several temporary structures to the site and the proposal would be limited in scale. As such, subject to preserving the character of the countryside (see discussion below), there is no compelling objection to the principle of the development with regard to saved policy 46.

#### **2. Principle of Development within the Green Belt**

The application site is located within the Metropolitan Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential

characteristics of Green Belts are their openness and their permanence. There is the presumption against inappropriate development in the Green Belt, as advised by The National Planning Policy Framework (2012). Inappropriate development is, by definition, harmful to the Green Belt unless a case of special circumstances can be demonstrated which would outweigh this harm.

Therefore, the main issues to consider in terms of Green Belt policy are the appropriateness of the development, effect on the purpose of including land in the Green Belt, effect on the openness of the Green Belt and the impact on the visual amenity of the Green Belt. If the development is inappropriate development a case of very special circumstances would need to be put forward to justify its approval.

### *Appropriateness*

The agent has put forward an evidenced case that the proposed use of the Garden Centre car park as a car wash is ancillary to the Garden Centre use for the following reasons:

- WCG (who manage Chipperfield Garden Centre) have contracted GFL (franchise of the car wash) to submit the application for the car washing facility to serve their customers.
- Primary use of the whole site remains as a Garden Centre.
- The car wash offers an additional service for customers while they shop, similar to garden centre restaurant.
- Garden Centre customers usually expect to find a car wash on site.
- A survey conducted of car wash customers indicates 96% are Wyevale customers.
- The car wash is very small in size and scale and appears visually and physically ancillary to the overall garden centre development.
- The car wash is not separated from the car park by any barriers.
- The opening times of the car wash are the opening time of the garden centre, i.e. when Wyevale open/close the front site entrance (security gate).
  
- The car wash constitutes only a small area of the site: 2.2% of the site.
- 120 car washes per week, totally 17/18 per day.

Given the above mentioned evidence and the scale and nature of the proposed use, it is considered that the proposal would not be different in function or character when compared to the existing lawful use of the site. As such, the proposed car wash would be ancillary to the lawful use of the site as a Garden Centre and does not constitute a material change of use.

### Construction of New Buildings

The site lies within the identified Green Belt, where the Green Belt Strategy is set out in the NPPF (Section 9: Protecting Green Belt Land). Therefore aside from the presumption in favour of sustainable development and core planning principles set out in paragraphs 6-17 of the NPPF the most relevant paragraph in this regard is 89. This states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, unless they fall within one of the exceptions set out.

Policy CS5 of the Core Strategy (2013) summarises the following acceptable small-scale

development which would be permitted:

- (a) building for the uses defined as appropriate in national policy;
- (b) the replacement of existing buildings for the same use;
- (c) limited extensions to existing buildings;
- (d) the appropriate reuse of permanent, substantial buildings; and
- (e) the redevelopment of previously developed sites\*, including major developed sites which will be defined on the Proposals Map.

The proposed development would be located on a piece of land which has been previously developed, in accordance with the definition for previously developed land (PDL) within Annex 2 of the Framework.

Policy CS5 of the Core Strategy (2013) states that the redevelopment of previously developed sites may be acceptable. Additionally, the NPPF (2012) states that the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) would be appropriate provided there would be no greater impact on the openness of the Green Belt and the purpose of including land within it.

Taking the above into account, subject to the proposal having no greater impact in terms of the openness of the Green Belt and including land within it than the existing Garden Centre (see discussion below), the partial redevelopment of this PDL would constitute appropriate development within the Green Belt, in accordance with identified local and national policy.

### *Openness*

As such development within previously developed land is appropriate subject to preserving the openness of the Green Belt. The ancillary use of car wash proposes retention of the following structures on site:

- 2.7 metre high, 15m<sup>2</sup> Office container;
- 1.6 metre high fencing; and
- 5x 2 metres high translucent wash screens

These elements are considered small-scale and short term additions to the site. Moreover, the proposed fencing and translucent screens could be constructed without formal planning consent under Part 2, Class of the GDPO which allows the construction of a gate, fence, wall or other means of enclosure up to 2 metres high. It is further considered that given the previous use of this area as car park/storage space the proposed structures do not further detriment to the openness of the Green Belt.

With regards to the visual sense of openness, there are views into the site from the open countryside these are limited due to set back of proposed application site within the curtilage of the Garden Centre and boundary treatment.

Overall, though the development would increase the physical permanence of the site, the proposal would not result in significant harm to the openness of the Green Belt over and above

the existing lawful use of the site as a developed car park/storage area.

#### *Purposes of including land in the Green Belt*

It is necessary to consider whether the proposal would result in harm in terms of the five purposes of including land in the Green Belt. Paragraph 80 of The NPPF states that the Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The proposal does not result in the unrestricted sprawl of a large built-up area, two towns merging into one another or encroachment of the countryside due to the proposal being located within a brown field site. Furthermore, the development does not harm the setting of a historic town and would not make urban regeneration any less likely.

#### *Summary*

The proposed car wash use would not constitute a material change of use and the retention of identified structures would not result in harm to the openness of the Green Belt or the purposes of including land within it when compared to the existing lawful use of the previously developed site. As such, the proposal represents appropriate development within the Green Belt.

### 3. Impact on Character and Appearance of the Area

Policies CS11 and CS12 of the Core Strategy (2013) and the NPPF (2012) all seek to ensure that any new development/alteration respects or improves the character of the surrounding area and adjacent properties in terms of design, scale, massing, materials, layout, bulk and height.

In accordance with the submitted application the proposed wash screens comprise of an aluminium section profile with a triple glazed polycarbonate sheet. The fencing is close boarded, stained black and the office cabin comprises of galvanised steel painted light grey. These materials are considered to be acceptable and unobtrusive to the already hard form of the car park/storage area; as such the proposal complies with policy CS12 of the Core Strategy (2013).

There are views into the site from the neighbouring agricultural plots and Tower Hill Road. Nonetheless, the boundary treatments to the north western boundary in respect of the screening fence and wooded trees are such that the car-wash facility is not be overtly visible from the adjacent highway or countryside.

It is important to note that although the structures are currently permanently on site, they are of temporary form and situ. As such, once the use of the car wash ceases they can be removed



with no residue effect to the site or appearance of the Green Belt.

As a result the structures associated with the car wash service are considered to relatively blend into the immediate environment and screened from the adjacent countryside and therefore not considered significantly visually intrusive or harmful to the character and appearance of the immediate area or countryside; accordingly the proposed coheres with the NPPF (2012) and policies CS5, CS11, CS12 of the Core Strategy (2013).

#### 4. Effect on Amenity of Neighbours

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Saved appendix 3 of the Local Plan (2004) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact on neighbouring properties and their amenity space. Thus, proposals should be designed to reduce any impact on neighbouring properties by way of visual intrusion, loss of light and privacy.

Given the scale, location and nature of the proposal it is not considered the development results in significant harm to the living conditions of the occupants of surrounding residential units, in terms of overbearing, overlooking and loss of light.

Turning to noise and disturbance, the application site is located over 50 metres away from the nearest residential property. Given the nature of the retained use, these properties would not be adversely affected. Environmental Health were also consulted on the scheme and raised no objection. The properties in closest proximity are businesses and as such themselves generate some degree of noise and disturbance and traffic.

For this reason, the retrospective application is considered acceptable in regards to residential amenity, complying with terms of the NPPF (2012), saved appendix 3 of the Local Plan (2004) and policy CS12 of the Core Strategy (2013).

#### 5. Highways Safety and Parking Provision

Policy CS12 of the Core Strategy (2013) seeks to ensure developments have sufficient parking provision. Paragraph 39 of the NPPF (2012) states that if setting local parking standards authorities should take into account the accessibility of the development, the type, mix and use of the development, availability of public transport; local car ownership levels and the overall need to reduce the use of high emission vehicles.

The Council's Parking Standards, set out within saved appendix 5 of the Local Plan (2004) require 1 parking space per 25 m<sup>2</sup> gfa for garden centres. The use of the car wash within the Garden Centre car park results in a reduction of parking provision available (although, the precise number is not known due to the informal layout of parking spaces for this area). Nonetheless, the main Garden Centre car park is considered to retain sufficient car parking provision (total 52 spaces) and the use of the site for the car wash was previously used for storage and not parking (photographic evidence of this was submitted alongside the planning application).

As a result, it is not considered that the proposal compromises the operation of the existing Garden Centre and does not result in an unacceptable reduction of the existing car parking provision on the site. Thus, it is not considered that the proposal would impact on the safety and operation of the adjacent highway.

## 6. Other Matters

### *(i) Social and Economic Impacts*

Sustainable economic growth is one of the key aspects of the current planning system. Paragraph 19 of the NPPF states:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.’

Paragraph 20 of the NPPF then goes on to outline:

‘To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.’

Specifically, with regards to the rural economy, Section 3 of the NPPF highlights that local plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas.

The application car wash employees a total of 5 full time staff and 4 part time staff and supports the business of the Garden Centre and provides a new facility to meet the needs of the local area. As such, the proposed retention is considered to have sufficient social and economics benefits to the rural economy to weigh in favour of the application.

### *(ii) Flood and Drainage*

Policy CS31 seeks to minimise the risk of flooding. The application site is not located within Flood Zones 2 or 3, indicating a low probability of flooding. Furthermore, the change in surfacing to Loose Aggregate/Chippings stone finish is to allow a permeable finish for water run off into main sewer. The discharge into this foul sewer was granted consent by Thames Water on the 24<sup>th</sup> November 2015. Gradients are used to direct waste water to a channel that flows to oil and silt interceptors that discharges in to a manhole that gives direct access to the public foul sewer. Drainage works would fall under engineering operations which are considered acceptable within the Green Belt, in accordance with the NPPF (2012) and CS5 of the Core Strategy (2013).

### *(iii) Appeal Decisions*

It important to refer to similar appeal and planning decisions for the determination of the use of car washes within the car park of a garden centre and designated Green Belt site:

- **Appeal Ref: APP/T0355/C/10/2126788: Wyevale Garden Centre, Dedworth Road, Windsor, SL4 4LH.**

*[no]* restriction or barrier separating the car wash from the rest of the garden centre and its parking spaces... a separate planning unit has not been created and, as a matter of fact and degree, the car wash is **incidental to the main use and operation as a garden centre... the siting of the office/store**, whilst operational development in its own right, was **small in scale and appeared visually and physically ancillary** to the overall garden centre development which **generally preserved the openness of this part of the Green Belt**.

- **Appeal Ref: APP/R5510/A/11/2149723: Pield Heath Garden Centre, Pield Heath Road, Hillingdon.**

The Inspector commented that the **siting** of a proposed outbuilding and existing car washing facility to the **north of the main car park and adjacent to an area which is used for outside sales and storage, and which is used for car parking overspill, will be incidental to the primary use of the site as a garden centre and a material change of use would not occur**. The Inspector considered that the **washing of vehicles in the car park area would have no greater visual impact than if it was used as overspill parking**, and that the proposed outbuilding would be essential for housing cleaning equipment and materials in association with the car washing facility. As such, the Inspector effectively established that the then existing car-wash facility adjacent to the northern boundary was a **permitted acceptable use and that it would not constitute an inappropriate development within the Green Belt**.

Subsequent to this a further retrospective planning application expanding the car park has been approved app ref: 13831/APP/2016/370.

- **App Ref: W/12/00556/CU: Fuchsiavale Nurseries, Worcester Road, Torton, Kidderminster, DY11 7SB**

Planning decision – It was considered that the engineering operation carried out to create the drainage tanks and car washing area **would not adversely affect the openness of the Green Belt**. The proposal **would not result in the permanent stationing of cars** on the car washing area. As such, this amended proposal **falls within the permitted uses set out in para 90 of the NPPF**. In addition, the applicant has submitted information to demonstrate very special circumstances that would justify development in this location. It is not necessary for the applicant to demonstrate this. Nonetheless, the information submitted is useful in establishing that the existing use is a local business and that the **business provides revenue for the district and employment for local residents**. This is clearly in accordance with the positive view the government has set out in the NPPF which seeks to **promote economic growth and support small scale rural businesses**.

*(iv) Community Infrastructure Levy (CIL)*

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is not CIL Liable.

RECOMMENDATION - That determination of the application be **DELEGATED** to the Senior Manager, Development Management , following the expiry of the consultation period and no additional material considerations being raised, with a view to grant for the following reasons.

- 1 **The premises shall only be open to customers between 9:00 am and 18:00 pm on Mondays to Saturdays; and 10:00 am to 16:00 pm on Sundays , Bank Holidays and Public Holidays.**

Reason: To ensure the use remains incidental to the Garden Centre, in accordance with policies CS5 and CS12 of the Core Strategy (2013).

- 2 **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

**311/23/03a Rev A**  
**311/23/03b Rev A**  
**311/23/03c Rev A**  
**331/21/03h**  
**331/21/03j**  
**331/21/03f**  
**331/21/03g**  
**331/15/04a**

Reason: For the avoidance of doubt and in the interests of proper planning.

#### Article 35

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.