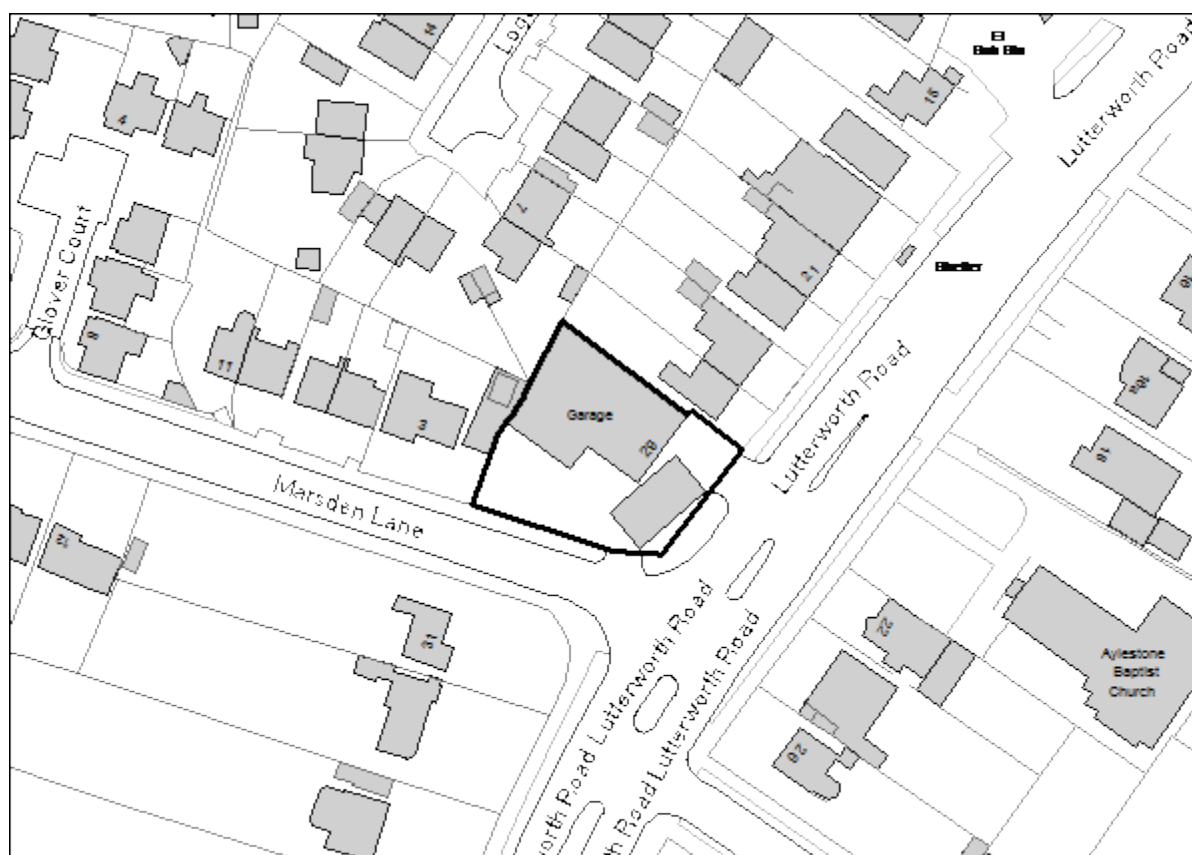


Recommendation: Conditional approval	
20191534	29 LUTTERWORTH ROAD
Proposal:	VARIATION OF CONDITION 4 (HOURS OF WORK) ATTACHED TO PLANNING PERMISSION 20030774 (CHANGE OF USE FROM CAR SALES TO CAR RENTAL) TO ALLOW FOR OFFICE HOURS OF 0600-2200, OPENING HOURS OF BUSINESS TO THE PUBLIC OF 0800-1800
Applicant:	ENTERPRISE RENT-A-CAR
View application and responses	https://planning.leicester.gov.uk/Planning/Display/20191534
Expiry Date:	13 December 2019
ACB	WARD: Aylestone



©Crown Copyright Reserved. Leicester City Council Licence 100019264 (2019). Ordnance Survey mapping does not imply any ownership boundaries and does not always denote the exact ground features.

Summary

- Application is at committee due to the number of objections.
- 16 objections have been received with the concerns being the impact on the amenity of residents from noise and movement on the site.
- The issues are the impact on residential amenity and highway safety of existing and proposed conditions
- It is recommended that conditions are varied

The Site

The site is a former petrol filling station and car sales site that is located on the junction of Lutterworth Road and Marsden Lane. The surrounding properties are all in residential use apart from the Aylestone Baptist Church on the opposite side of Lutterworth Road.

Background

In May 2003 planning permission 20030774 was granted for change of use from car sales to car rental subject to the following conditions:

1. (Start within 5 years)
2. The parking spaces shall be marked out, with those for staff and customers only (as shown on the approved plan) identified as such, and used only for this purpose, and all parking spaces retained.
(To achieve a satisfactory form of development, in the interests of highway safety and in accordance with policy H7 of the City of Leicester Local Plan)
3. At least one car parking space for the use of disabled people shall be provided before the development is occupied to the satisfaction of the City Council as local planning authority and shall be retained and kept available for use by disabled people.
(To ensure adequate provision for the needs of disabled people, and in accordance with policy EN41 of the City of Leicester Local Plan.)
4. No machinery shall be operated and no work shall be undertaken outside the hours of 08.00 to 18.00 hours Mondays to Fridays, and 09.00 to 12.00 hours Saturdays, nor at any time on Sundays or officially recognised public holidays.
(In the interests of the amenities of nearby occupiers, and in accordance with policy(ies) H7 of the City of Leicester Local Plan.)
5. No rental vehicles shall be parked by staff or customers outside the premises on Lutterworth Road or Marsden Lane at any time.
(In the interests of residential amenity and highway safety and in accordance with policy H7 of the City of Leicester Local Plan)

In April 2019 planning application 20181962 for a variation of condition 4 to allow for the business to be open to the public between 08.00 and 18.00 but to allow machinery to be operated between 07.00 and 20.00 and for office work including moving vehicles to be undertaken between 06.00 and 22.00 was refused for the following reason;

1. *The proposal, by reason of the noise generated from machinery to be operated on the site and movements of vehicles, would be detrimental to the residential amenity of the residential area and particularly the neighbouring property at 3 Marsden Lane. The proposal is therefore contrary to saved policies PS10 and PS11 of the City of Leicester Local Plan and paragraph 180 of the National Planning Policy Framework.*

The Proposal

Applications to vary conditions on planning permissions are referred to as “Section 73” applications. The local planning authority can decide to vary it as requested or in a different way. In either case the local planning authority can also amend or add any other conditions that are needed as a consequence of the variation sought.

The alternative is to refuse to vary the terms of the permission.

The application requests that the condition be varied to:

“No machinery shall be operated outside the hours of 0800-1800 Monday to Friday and 0900-1700 hours Saturdays, not at any time on Sundays or officially recognised public holidays and no work shall be undertaken outside the hours of 0600-2200 Mondays to Fridays, and 0700 -1700 Saturdays, nor at any time on Sundays or officially recognised public holidays.”

Policy Considerations

National Planning Policy Framework (NPPF)

Paragraph 2 states that applications for planning permission must be determined in accordance with development plans unless material considerations indicate otherwise. Paragraph 11 states that there is a presumption in favour of sustainable development. Paragraph 80 requires great weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 109 states that development should only be 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.

Paragraph 110 requires applications for development to give priority to pedestrians and cycle movements; address the needs of people with disabilities and reduced mobility; create places that are safe, secure and attractive; allow for the efficient delivery of goods and; be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Development Plan policies

Development plan policies relevant to this application are listed at the end of this report.

Most relevant Local plan policies are PS10 and PS11

Consultations

Service Director, Environmental Health – The use of machinery is likely to be detrimental to local residents and the hours of use for machinery should remain as existing and that any increased operation of the office use should commence after 0730. They recommend a revised condition be attached to reflect this.

Local Highway Authority – No objections.

Representations

16 objections have been received. The grounds of objection are;

- The companies vans and cars are always parked on Marsden Lane and Franklyn Road in breach of another condition.
- Extension of opening hours would cause further noise and disruption.
- The company already breach their existing hours and are moving cars after 10.00pm and washing cars until 9.00pm.
- The company should not be located in a residential area and have outgrown the site.
- Deliveries of vehicles on car transporters have blocked the bus lane.
- Residents do not believe that the company would adhere to new hours.
- Paperwork carried out on the street rather than in the office.
- Concerns about spray from vehicle washing.
- Impact of lights being left on at night

Consideration

Existing conditions

In considering this application officers have looked at the existing conditions and their effectiveness.

Condition 5: No rental vehicles shall be parked by staff or customers outside the premises on Lutterworth Road or Marsden Lane at any time.

This condition was added at the time of the 2003 permission with the intention of minimising disturbance for residents; however there are legal and practical problems with enforcing it as it is directed at activities on the public highway outside the control of the site operator.

The existing condition 4 is worded:

No machinery shall be operated and no work shall be undertaken outside the hours of 08.00 to 18.00 hours Mondays to Fridays, and 09.00 to 12.00 hours Saturdays, nor at any time on Sundays or officially recognised public holidays.

There may be doubt about whether this covers every use of the site in relation to the car rental business.

Residential amenity

Operation of machinery, cleaning and maintenance

The nearest residential properties are 3 Marsden Lane and 27 Lutterworth Road. 3 Marsden Lane is located to the rear of the site and is adjacent to the area where vehicles are washed.

The washing of vehicles currently takes place using a jet wash which is powered by a compressor. A vacuum cleaner is also used.

The applicants have submitted a Planning Statement which states that following the refusal of the previous application the sound proofing measures detailed in the noise assessment that was submitted with the refused application have been implemented. The applicants have confirmed that they are not proposing to change the hours of operation of machinery and these would remain at 0800-1800 Monday to Friday.

The application seeks to increase the office hours outside those hours but have said that vehicles would be taken off the site to be cleaned and maintained elsewhere outside those hours.

The previous application was refused on the basis of a potential increase in the hours of operation of machinery including washing of vehicles which would have resulted in an increase in the number of hours that machinery could operate from 53 hours to 91 hours.

I think it is important that conditions restricting this to day time only is essential.

Customers and vehicles coming and going

A further source of disturbance for residents is the coming and going of customers picking up or dropping off vehicles. It is desirable if this could be controlled at sensitive times i.e the same times as machinery, cleaning and maintenance are restricted.

It is not clear that the existing condition does this. A condition restricting hours of such activity might also address issues relating to customers parking on adjacent streets. Further a condition requiring a management plan might further help to minimise disturbance and annoyance.

Office work

The applicant has asked that this be permitted up to 22.00 hours. If this is confined to administrative staff duties, with no customer or vehicle movements, this might be acceptable; however there is also an argument that any operation of the business after 18.00 has the potential for attracting harmful activity.

Highways and Parking

The site is located on a main arterial route into and out of the city. I consider that the proposal to extend the hours of operating will not be likely to lead to a significant

increase in traffic visiting or parking at the site. Whilst the extended hours of operating may make it less attractive for staff to travel by public transport or cycling I do not consider that this would be a basis for refusing the application on highway grounds.

One of the objections refers to vehicle transporters parking in the bus lane adjacent to the site. Since this occurred the bus lane has had camera enforcement installed and any matters arising from illegal parking or use of the bus lane can be dealt with by other means and would also not justify refusal of the application.

This application gives an opportunity to review the parking related conditions. The current condition could be replaced by a condition requiring space to be retained at all times to allow all staff and customers to park within the site.

A management plan could also assist to minimise problems and I suggest a condition be applied to require this.

Other matters

Some of the objections refer to the site having previously not complied with the conditions relating to the hours of use. The application has been submitted as a result of the investigation and is an attempt by the rental company to adjust the hours in accordance with their operation.

In addition to this, the previous condition was not clear and taking enforcement action in relation to reports of breaches into it has proven to be difficult.

Conclusion

In conclusion, I consider that the application gives an opportunity to allow the business to continue to operate but with more directed and enforceable conditions to protect residential amenity

I therefore recommend that the conditions are varied as follows:

CONDITIONS

1. The parking areas provided on the site shall be retained for parking and not used for any other purpose. Sufficient spaces shall be reserved within the site for the use of staff and customers at all times. (To ensure that parking can take place in a satisfactory manner, to minimise parking outside the site and in accordance with policy AM11 of the City of Leicester Local Plan and Core Strategy policy CS3.)
2. Within 3 months of the date of this consent at least 1 car parking space for the use of disabled people shall be provided in accordance with guidance in the Leicester City Council and Leicestershire County Council document "6Cs Design Guide" and shall be retained and kept available for use by disabled people. (To ensure adequate provision for the needs of disabled people, and in accordance with policy AM11 of the City of Leicester Local Plan and Core Strategy policy CS3.)

3. The use shall not be carried out outside the hours of 0600-2200 Mondays to Fridays, and 0900-1700 Saturdays, nor at any time on Sundays or officially recognised public holidays. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
4. The site shall only be used, and the business operated in accordance with a management plan submitted to and agreed with the city council as local planning authority. The management plan shall specify how customers will be instructed in relation to the pick up and drop off of vehicles, how the site will be used within the hours specified and how it will be secured outside those hours. The site shall only be used and the business shall only be operated in accordance with the approved management plan. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
5. There shall be no cleaning or maintenance of vehicles, operation of any machinery on the site or access for customers to the site outside the hours of 0800-1800 hours Mondays to Fridays, and 0900-1700 hours Saturdays, nor at any time on Sundays or officially recognised public holidays. Outside of these hours the site shall only be used by staff for administrative work within the office. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
6. There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process. The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019 is considered to be a positive outcome of these discussions.

Policies relating to this recommendation

- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.

- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.