



# Graham Miles – Architect.

Interior and Project Management  
**Graham C Miles Dip Arch. RIBA Architect**  
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GM.1292/GCM/pc

Rochford District Council,  
Planning Department,  
Council Offices,  
South Street,  
Rochford, SS4 1BW.

20<sup>th</sup> July 2011

Dear sirs,

**Re:- Appeal against Failure to give a Decision.**  
**2-4. Aldermans Hill, Hockley, Essex, SS5 4RW.**

I enclose my client's Appeal against your failure to give a decision regarding the Removal of Conditions 2 and 6.

Should you have any queries or require further information please do not hesitate to contact me.

Yours faithfully,

**Graham C. Miles, Dip Arch. RIBA Architect.**



# The Planning Inspectorate



Further information about us and the planning appeal system is available on our website [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)



For official use only  
Date Received

## PLANNING APPEAL

If you need this document in large print, on audio tape, in Braille or in another language, please contact our helpline on 0117 372 6372.

### Please use a separate form for each appeal

Your appeal and essential supporting documents must reach the Inspectorate within 6 months of the date shown on the Local Planning Authority's decision notice (or, for 'failure' appeals, within 6 months of the date by which they should have decided the application).

Before completing this form, please read our booklet 'Making your planning appeal' which was sent to you with this form.

**WARNING:** If any of the 'Essential supporting documents' listed in Section J are not received by us within the 6 month period, the appeal will not be accepted.

**PLEASE PRINT CLEARLY IN CAPITALS USING BLACK INK**

### A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name **ADEM HALILAJ**

Organisation Name (if applicable)

Address **37. PRINCES TERRACE, LONDON**

Postcode **E13 9AS**

Daytime Tel

Fax

Email

I prefer to be contacted by Email  Post

### B. AGENT DETAILS (if any) FOR THE APPEAL

Name **GRAHAM MILES**

Organisation Name (if applicable) **MILES DESIGNS**

Address **103 TRINITY ROAD, SOUTHEND-ON-SEA  
ESSEX**

Postcode **SS2 4HH**

Your Ref **GM.1292**

Daytime Tel **01702611600**

Fax

Email **gem@milesdesigns.co.uk**

I prefer to be contacted by Email  Post

### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the LPA **ROCHFORD DISTRICT COUNCIL**

LPA's application reference no. **10/00402/000**

Date of the planning application **100610**

Date of LPA's decision notice (if issued) **110810**

# The Planning Inspectorate - Planning Appeal

## D. APPEAL SITE ADDRESS

Address 2-4, ALDERMANS HILL, HOCKLEY, ESSEX

Postcode SS5 4RW **Note: Failure to provide the full postcode may delay the processing of your appeal.**

Is the appeal site within a Green Belt? YES  NO

## E. DESCRIPTION OF THE DEVELOPMENT

Please enter details of the proposed development. This should normally be taken from the planning application form, but if the application was revised (and agreed) while it was with the local planning authority for consideration, you may enter a description of the revised scheme.

CHANGE OF USE TO HAND CAR WASH &  
VALETING

Size of the whole appeal site (in hectares) 0.063

Area of floor space of proposed development (in square metres)                     

Has the description of the development changed from that entered on the application form? YES  NO

## F. REASON FOR THE APPEAL

**This appeal is against the decision of the LPA to:**

*Please tick **ONE** box only*

- 1 Refuse planning permission for the development described in Section E. 1
  - 2 Grant planning permission for the development subject to conditions to which you object. 2
  - 3 Refuse approval of the matters reserved under an outline planning permission. 3
  - 4 Grant approval of the matters reserved under an outline planning permission subject to conditions to which you object. 4
  - 5 Refuse to approve any matter required by a condition on a previous planning permission (other than those in 3 or 4 above). 5
- OR**
- 6 The failure of the LPA to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval. 6

## G. CHOICE OF PROCEDURE

### CHOOSE ONE PROCEDURE ONLY

You should start by reading our booklet 'Making your planning appeal' which explains the different procedures used to determine planning appeals. In short there are 3 possible methods: - written representations, hearings and inquiries. You should consider carefully which method suits your circumstances.

Please note that when we decide how the appeal will proceed we will take into account the LPA's views. ✓

#### 1 WRITTEN REPRESENTATIONS

This is normally the simplest, quickest and most straightforward way of making an appeal. Three out of every four people making an appeal choose this method. The written procedure is particularly suited to small-scale developments (e.g. extensions of buildings, individual houses or small groups of houses, appeals against conditions and changes of use). It is also very popular with people making their own appeal without professional help. The process involves the submission of written 'grounds of appeal' followed by a written statement and any supporting documents. It also provides an opportunity to comment in writing on the Local Planning Authority's reasons for refusing permission (or failing to determine the application). An Inspector will study all of the documents before visiting the appeal site/area and issuing a written decision. w

**NOTE: The Inspector will visit the site unaccompanied by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts.**

- a) If the written procedure is agreed, can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land? YES  
NO
- b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? YES  
NO

If the answer to **1b** is 'YES' please explain

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#### 2 HEARINGS

This process is likely to be suited to slightly more complicated cases which require detailed discussion about the merits of a proposal. Like the written procedure, the process starts with the submission of 'written grounds of appeal' followed by a full written statement of case and an opportunity to comment in writing on the Local Planning Authority's reasons for refusing permission (or failing to determine the application). The Planning Inspectorate will then arrange a hearing at which the Local Planning Authority and the appellant(s) will be represented. Members of the public, interested bodies (e.g. Parish/Town Councils) and the press may also attend. At the hearing the Inspector will lead a discussion on the matters already presented in the written statements and supporting documents. The Inspector will visit the site/area and issue a written decision in the same way as the written procedure. H ✓

Although you may prefer a hearing the Inspectorate must consider your appeal suitable for this procedure.

#### 3 INQUIRIES

This is the most formal of procedures. Although it is not a court of law the proceedings will often seem to be quite similar as the parties to the appeal will usually be legally represented and expert witnesses will be called to give evidence. Members of the public and press may also attend. In general, inquiries are suggested for appeals that: I

- are complex and particularly controversial;
- have caused a lot of local interest;
- involve the need to question evidence through formal cross-examination.

## **H. Grounds for appeal.**

**2-4, Aldermans Hill, Hockley, Essex, SS5 4RW.**

### **Conditions 2, and 6.**

Planning Permission was refused on 10<sup>th</sup> March 2010 for the Change of Use from a Petrol Filling Station to a Hand Car Wash and Valetting Centre. This refusal was on two grounds – The unsightliness of the temporary fence erected on the eastern boundary; and Traffic issues. The traffic issues were resolved with the County Highway Authority and a subsequent application made with a request for the boundary treatment to be the subject of a Condition.

Planning Permission was granted for the Change of Use from a Petrol Filling Station to a Hand Car Wash and Valetting Centre on 11<sup>th</sup> August 2010. That Permission was subject to conditions some on which are the subject of this appeal.

However on the 24<sup>th</sup> May 2010 Rochford District Council Issued an Abatement Notice in respect of Noise Nuisance.

It could be argued that this notice was not necessary and was heavy-handed because the issues could be dealt with by planning conditions. In fact Conditions 2, 4, 5, 6, and 9 were attached to the permission.

It could equally be argued that the Conditions were unnecessary because the Notice had been issued and had greater powers of enforcement than those available under Planning Law.

However the understanding is that the Notice cannot be rescinded only complied with. The latter argument is therefore the basis of this appeal to have the Conditions struck out.

On the 20<sup>th</sup> April 2011 application for Removal of Conditions 2 and 6 was made to the LPA. The LPA registered the Application on the 11<sup>th</sup> May 2011, giving 6<sup>th</sup> July 2011 as the day by which they had to issue a decision.

To date the LPA has FAILED to give a decision.

The Abatement Notice is an all embracing measure which covers all activities on the site – audible signals – amplified sound and music – plant and machinery and the activities associated with washing of cars. It was therefore not necessary to attach Conditions to the Planning Permission to achieve the same end; particularly the management of plant and equipment under Condition 2, and the soundproofing of a building under Condition 6.

- **Condition 2.** Under the Abatement Notice no equipment irrespective of its type or manufacture or management may cause a noise nuisance beyond the cartilage of the site. Condition 2 is too prescriptive and too specific. For example should the operator change a piece of equipment he would have to make an application to vary Condition 2 on each occasion. Under the Abatement Notice he is compelled to ensure that whatever equipment of whatever specification he used did not cause a noise nuisance. Condition 2 is unnecessary and should be struck out.
- **Condition 6.** Under the Abatement Notice the operation of the site must not cause a noise nuisance beyond the site boundary. Condition 6 requires the building to be soundproofed which is impractical. The nature of washing cars in a wash bay is that they have to be driven into and out from the bay – hence the bay has two large holes in it. The noise caused – particularly by the washing of alloy wheels – can be screened from the adjoining properties and the noise abated – it cannot however be contained within the building. Condition 6 is impractical, unnecessary and should be struck out.

# I. APPEAL SITE OWNERSHIP DETAILS

We need to know who owns the appeal site. If you do not own the appeal site or if you own only a part of it, we need to know the name(s) of the owner(s) or part owner(s). We also need to be sure that any other owner knows that you have made an appeal. **YOU MUST TICK WHICH OF THE CERTIFICATES APPLIES.**

Please read the enclosed *Guidance Notes* if in doubt.

Please tick **ONE** box only ✓

If you are the **sole** owner of the **whole** appeal site, certificate A will apply:

## CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, ~~nobody~~ except the appellant, was the owner (see Note (i) of the *Guidance Notes* for a definition) of any part of the land to which the appeal relates:

OR

## CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice (see *Guidance Notes*) to everyone else who, on the day 21 days before the date of this appeal, was the owner (see Note (i) of the *Guidance Notes* for a definition) of any part of the land to which the appeal relates, as listed below:

Owner's Name	Address at which the notice was served	Date the notice was served
TIMOTHY SIDNEY CRIPPS	1, BADGER MOUNT, HACKLEY, S55 4SA	200711
MR. READING	1, BADGER MOUNT, HACKLEY, S55 4SA	200711
		DDMMYY

## CERTIFICATES C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D enclosed with the accompanying *Guidance Notes* and attach it to the appeal form.

# AGRICULTURAL HOLDINGS CERTIFICATE (This has to be completed for all appeals)

We also need to know whether the appeal site forms part of an agricultural holding. Please tick either (a) or (b).

If the appellant is the **sole** agricultural tenant, (b) should be ticked and 'not applicable' should be written under 'Tenant's name'.

a) None of the land to which the appeal relates is, or is part of, an agricultural holding:

OR

b) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates as listed below:

Tenant's Name	Address at which the notice was served	Date the notice was served
		DDMMYY
		DDMMYY
		DDMMYY
		DDMMYY

## J. ESSENTIAL SUPPORTING DOCUMENTS

The documents listed in 1-6 below, **must** be sent with your appeal form; 7-11 must also be sent if appropriate. If we do not receive **all** your appeal documents by the end of the 6 month appeal period, we will not deal with it. Please tick the boxes to show which documents you are enclosing.

- |   |  |     |
|---|--|-----|
| 1 | A copy of the original <b>planning application</b> sent to the LPA.  | 1 ✓ |
| 2 | A copy of the <b>site ownership certificate and ownership details</b> submitted to the LPA at <u>application stage</u> (this is usually part of the LPA's planning application form).  | 2 ✓ |
| 3 | A copy of the <b>LPA's decision notice</b> (if issued).  | 3   |
| 4 | A <b>site plan</b> (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue. | 4   |
| 5 | A list (stating drawing numbers) and copies of all <b>plans, drawings and documents</b> sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.  | 5 ✓ |
| 6 | A list (stating drawing numbers) and copies of any <b>additional plans, drawings and documents</b> sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).  | 6   |

**Copies of the following must also be sent, if appropriate:**

- |    |  |                |
|----|--|----------------|
| 7  | <b>Additional plans, drawings or documents</b> relating to the application but not previously seen by the LPA. Please number them clearly and list the numbers here:<br><br>_____<br><br>_____<br><br>_____  | 7              |
| 8  | Any relevant <b>correspondence</b> with the LPA.   | 8 ✓            |
| 9  | If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:<br><br>(a) the relevant outline application;<br><br>(b) all plans sent at outline application stage;<br><br>(c) the original outline planning permission. | 9a<br>9b<br>9c |
| 10 | If the appeal is against the LPA's refusal or failure to decide an application which relates to a <b>condition</b> , we must have a copy of the original permission with the condition attached.   | 10 ✓           |
| 11 | A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).  | 11             |
| 12 | If you have sent other appeals for this or nearby sites to us and these have not been decided, please give details and our reference numbers.<br>APP/B1550/C/11/2153338.   | 12 ✓           |

**PLEASE TURN OVER AND SIGN THE FORM - UNSIGNED FORMS WILL BE RETURNED**

## K. PLEASE SIGN BELOW

(Signed forms together with all supporting documents must be received by us within the 6 month time limit)

- 1 I confirm that I have sent a copy of this appeal form and relevant documents to the LPA (if you do not your appeal will not normally be accepted).
- 2 I confirm that all sections have been fully completed and that the details of the ownership (section I) are correct to the best of my knowledge.

Signature



Date 200711

Name (in capitals) GRAHAM MILES

On behalf of (if applicable) ADEM HALPILAG



The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 1998. Further information about our Data Protection policy can be found on our website under "Privacy Statement" and in the booklet accompanying this appeal form.

### NOW SEND

#### 1 COPY to us at:

The Planning Inspectorate  
Registry/Scanning Team  
Temple Quay House  
2 The Square  
Temple Quay  
BRISTOL  
BS1 6PN

#### 1 COPY to the LPA

Send a copy of the appeal form to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA). There is no need to send them all the documents again, send them any supporting documents not previously sent as part of the application. If you do not send them a copy of this form and documents, we may not accept your appeal.

#### 1 COPY for you to keep

When we receive your appeal form, we will:

- 1 Tell you if it is valid and who is dealing with it.
- 2 Tell you and the LPA the procedure for your appeal.
- 3 Tell you the timetable for sending further information or representations.

#### YOU MUST KEEP TO THE TIMETABLE

If information or representations are sent late we may disregard them. They will not be seen by the Inspector but will be sent back to you.

- 4 Tell you about the arrangements for the site visit, hearing or inquiry.

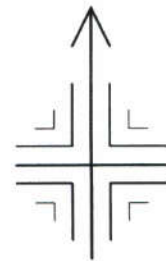
At the end of the appeal process, the Inspector will give the decision, and the reasons for it, in writing.

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St Clements House  
2-6 Colegate  
Norwich  
NR3 1BQ



## OS Site Location Plan - 1 : 1250

# Miles Designs

**Graham C Miles** Dip Arch. RIBA Architect,  
 37, Broseley Grove, Sydenham, LONDON, SE26 5LD.  
 ☎ 020 8659 9949 📠 020 8659 5612 📞 0777 8 194 843  
 ✉ gcm@milesdesigns.co.uk

2-4, Aldermans Hill,  
 Hockley, Essex, SS5 4RW

Drawing No :

# 1292/OS

29/04/2011



Council Offices, South Street  
Rochford Essex SS4 1BW  
http://www.rochford.gov.uk  
planning.applications@rochford.gov.uk / 01702 318191

Application for approval of details reserved by condition.

Town and Country Planning Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

You can complete and submit this form electronically via the Planning Portal by visiting [www.planningportal.gov.uk/apply](http://www.planningportal.gov.uk/apply)

**Publication of applications on planning authority websites**

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

**1. Applicant Name and Address**

Title:  First name:

Last name:

Company (optional):

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

**2. Agent Name and Address**

Title:  First name:

Last name:

Company (optional):

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

### 3. Site Address Details

Please provide the full postal address of the application site.

Unit:  House number: **2-4** House suffix:

House name:

Address 1: **ALDERMANS HILL**

Address 2:

Address 3:

Town: **HOCKLEY**

County: **ESSEX**

Postcode (optional): **SS5 4RW**

Description of location or a grid reference.  
(must be completed if postcode is not known):

Easting:  Northing:

Description:

### 4. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?  Yes  No

If Yes, please complete the following information about the advice you were given. (This will help the authority to deal with this application more efficiently).

Please tick if the full contact details are not known, and then complete as much as possible:

Officer name:

Reference:

Date (DD/MM/YYYY):   
(must be pre-application submission)

Details of pre-application advice received?

### 5. Description Of Your Proposal

Please provide a description of the approved development as shown on the decision letter, including the application reference number and date of decision in the sections below.

**CHANGE OF USE TO HAND CAR WASH AND VALETING CENTRE [RETROSPECTIVE]**

Reference number: **10/00402/COV** Date of decision: **11 Aug 2010** (Date must be pre-application submission) (DD/MM/YYYY)

Please state the condition number(s) to which this application relates:

1.		<b>6</b>	
<b>2</b>		7.	
3.		8.	
4.		9.	
5.		10.	

Has the development already started?  Yes  No

If Yes, please state when the development started (DD/MM/YYYY):

**14/12/2009** (date must be pre-application submission)

Has the development been completed?  Yes  No

If Yes, please state when the development was completed (DD/MM/YYYY):

**14/12/2009** (date must be pre-application submission)

### 6. Discharge Of Condition

Please provide a full description and/or list of the materials/details that are being submitted for approval:

**CONDITIONS 2 & 6 TO BE STRUCK OUT BECAUSE THE COUNCIL HAS UTILISED OTHER POWERS WHICH HAVE GREATER DEGREE OF ENFORCEMENT - NOISE ABATEMENT NOTICE UNDER ENVIRONMENTAL HEALTH LAWS.**

### 7. Part Discharge Of Condition(s)

Are you seeking to discharge only part of a condition?  Yes  No

If Yes, please indicate which part of the condition your application relates to:

### 8. Planning Application Requirements - Checklist

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.

The original and 3 copies of a completed and dated application form:

The original and 3 copies of other plans and drawings or information necessary to describe the subject of the application:

The correct fee:

### 9. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information.

Signed - Applicant:

Or signed - Agent:

*[Signature]*

Date (DD/MM/YYYY):

20 APRIL 2011

(date cannot be pre-application)

### 10. Applicant Contact Details

Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

Email address (optional):

### 11. Agent Contact Details

Telephone numbers

Country code: National number: Extension number:

0044 01702 611 600

Country code: Mobile number (optional):

0044 07778 114 843

Country code: Fax number (optional):

Email address (optional):

gen@wilesdesign.co.uk

### 12. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?  Yes  No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

Agent  Applicant  Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

Telephone number:

Email address:



**TOWN & COUNTRY PLANNING ACT, 1990**

**NOTICE OF DECISION**

Date : 11th August 2010

Application No : 10/00402/COU

Parish : Hockley Parish Council

Proposal : Change of Use to Hand Car Wash and Valeting Centre  
(Retrospective)

Site Location : 2 - 4 Aldermans Hill Hockley

Applicant : Mr Adem Halilaj

The Council as District Planning Authority hereby give notice of their decision to **GRANT PLANNING PERMISSION** for the above proposal as described in the accompanying drawing(s) numbered 1292/02-B date stamped 16th June 2010, subject to the conditions set out below.

Your attention is drawn to the notes enclosed

**CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Cont/d overleaf...

- 2 Within one calendar month of the date of this permission details of the installation or use of any equipment used in the car wash process shall be submitted to the Local Planning Authority and shall include sound attenuation measures (including management techniques) for the car washing and vacuuming operations. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority. Such agreed details shall be fully implemented within one month of being agreed in writing by the Local Planning Authority and shall be maintained in the approved form while the premises are in use for the permitted purpose as a car washing and valeting premises.

REASON: In the interests of ensuring that equipment used in conjunction with the use hereby approved does not have a harmful effect on residential amenity.

- 3 The use hereby permitted shall not operate outside the hours of 08.30 – 19.00 daily.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 4 There shall be no audible signal device provided to either the car washing or vacuum cleaner operations.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 5 There shall be no blower-drying facility provided with the carwash.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 6 Within one calendar month of the date of this permission the building envelope (carwash) shall be insulated against the egress of internally generated noise, in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented and maintained in the approved form while the premises are in use for the permitted purpose as a car washing and valeting premises.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 7 Details of any external equipment or openings in the external walls or roofs of any of the buildings proposed at any time in connection with the permitted use, shall be submitted to and approved in writing by the Local Planning Authority before the machinery is installed or the opening formed. The equipment shall be installed or the openings formed as may be approved by the Local Planning Authority and shall be maintained in the approved form while the premises are in use for the permitted purpose as a car washing and valeting premises.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 8 No work shall be carried out on the open areas of the site other than to the "Wash Prep." "Drying" and "Valeting" areas as shown equivalent to one car parking space for each function as shown on the approved plan Drg. No. 1292/02/B.

REASON: In the interests of visual and residential amenity.

- 9 No amplified speech or music shall be broadcast on the open areas of the site.

REASON: In the interests of ensuring that the use hereby approved does not have a harmful effect on residential amenity.

- 10 Within three calendar months of the date of this permission hereby granted the applicant shall submit details including appearance and materials for the provision of a wall to be provided to the frontage to Folly Lane to a maximum height of 2.25m above ground level in the position marked A-B-C shown on the approved plan Drg. No. 1292/02-B and lowering to a maximum height of 1m above ground level in the position marked C - D on the approved plan. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority within six calendar months of the date of this permission.

REASON: In the interests of visual amenity.

- 11 Within one month of the date of this permission, details of all proposed external lighting on the site (including details of any existing lighting) shall be submitted to and agreed in writing with the Local Planning Authority. Details to be submitted shall include the position of any lights on buildings or other structures on the site, the design of lighting, details of the proposed luminance and proposed angle of orientation of lights at the site and any shielding. External lighting at the site shall be implemented strictly in accordance with the details agreed and retained in the approved form thereafter. Any alteration or removal of existing lighting at the site as agreed shall be completed within 1 month of the date of the agreement of the details.

REASON: In the interests of ensuring that lighting at the site erected in connection with the use hereby approved does not cause harm to residential amenity.

#### INFORMATIVE

- 1 All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to the Area Highways Manager South No. 1 Endeavour Drive, Festival Business Park, Basildon, Essex SS14 3WF.

Cont/d overleaf...

2 The applicants attention is drawn to the fact that during the construction of the proposed development, there is potential for nuisance to occur by way of noise, smoke, smell, etc. It is strongly recommended that steps are taken to prevent such nuisances arising, otherwise formal action may be taken under the Environmental Health legislation. These steps should include:-

1). Ensuring that works of clearance or construction that are likely to generate noise at the boundary of the site are not carried out:

a). outside the hours of 7.00am to 6.00pm Monday to Friday and 7.00am to 2.00pm Saturdays or;

b). on Sundays and Bank Holidays.

2). Ensuring that during the clearance of the site and construction works, no waste materials are burnt on site.

Advice on the control of nuisances is available from the Council's Head of Housing, Health and Community Care.

### **REASON FOR DECISION**

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.

### **Relevant Development Plan Policies and Proposals:**

Parking Standards Design and Good Practice Essex County Council and Essex Planning Officers Association September 2009



**SHAUN SCRUTTON**  
**HEAD OF PLANNING AND TRANSPORTATION**

Council Offices, South Street, Rochford, Essex SS4 1BW  
Telephone: 01702 546366 Facsimile: 01702 545737  
DX: 39751 Rochford Website: <http://www.rochford.gov.uk>



**ENVIRONMENTAL PROTECTION ACT 1990, section 80**

**Abatement Notice in respect of Noise Nuisance**



To **Mr Adem Hallaj**  
of **James' Hand Car Wash, 2-4 Aldermans Hill, Hockley, Essex, SS5 4RW**

**TAKE NOTICE** that under the provision of the Environmental Protection Act 1990\* Rochford District Council ("The Council"), being satisfied of the [existence] ~~likely occurrence~~ [recurrence] of noise amounting to a statutory nuisance under section [79(1)(g)] ~~79(1)(ga)]~~ of that Act at nearby residential properties in Aldermans Hill, Hockley, Essex [within the district of the Council] arising from† the use of pressure washer(s) at James' Hand Car Wash, 2-4 Aldermans Hill, Hockley, Essex, SS5 4RW

**[HEREBY REQUIRE YOU]** as ~~one of~~ the person(s) responsible for the said nuisance] ~~the owner~~ ~~occupier~~ of the premises] from which the noise is or would be emitted] ~~the person in whose name the vehicle is for the time being registered~~ ~~the driver of the vehicle~~ ~~the operator of machinery or equipment~~, by **Noon 25 June 2010** to abate the same] [and also] **[HEREBY [PROHIBIT] [RESTRICT]** the ~~occurrence~~ [recurrence] of the same] [and for that purpose require you to:‡

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, ~~the nuisance to which this notice relates is injurious to health~~ ~~likely to be of a limited duration such that suspension would render the notice of no practical effect~~ [the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance].

**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

⊕ ~~The period specified above for compliance with this notice shall be extended by \_\_\_\_\_ in accordance with section 80A(4) of the Environmental Protection Act 1990.]~~

DATED: 24 MAY 2010

(Signed)

Principal Environmental Health Officer    Ω  
(The officer appointed for this purpose)

⊕ [Time copy served] †  
Address for all communications:  
Head of Environmental Services  
Rochford District Council, Council Offices  
South Street, Rochford, Essex SS4 1BW

**NB** The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service to the notice. See notes on the reverse of this form.

\* Insert name of local authority.    † Describe the cause of the nuisance.    \*\* Currently £5,000, subject to alteration by Order.  
‡ State specific works to be done or action to be taken.    Ω Insert title of proper officer.  
⊕ This paragraph applies only where this is a copy of a notice which has been affixed to a vehicle, machinery or equipment by the local authority under section 80A(2)(b) of the Act and this copy has been served within ONE HOUR of such notice having been so affixed.



The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:

**APPEALS UNDER SECTION 80(3) OF THE ENVIRONMENTAL PROTECTION ACT 1990 ("THE 1990 ACT")**

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the case:-
- that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - where the nuisance to which the notice relates:-
    - is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade, or business premises;
    - is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
    - is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practical means were used to prevent, or to counteract the effects of, the nuisance;
  - that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of:-
    - any notice served under section 60 or 66 of the Control of Pollution Act 1974 ("the 1974 Act") (control of noise on construction sites and from certain premises), or
    - any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - any determination made under section 67 of the 1974 Act (noise control of new buildings);
  - that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
  - that the abatement notice should have been served on some person instead of the appellant, being:-
    - the person responsible for the nuisance, or
    - the person responsible for the vehicle, machinery or equipment, or
    - in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - that the abatement notice might lawfully have been served on some person instead of the appellant, being:-
    - in the case where the appellant is the owner of the premises, the occupier of the premises, or
    - in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
  - that the abatement notice might lawfully have been served on some person in addition to the appellant, being:-
    - a person also responsible for the nuisance, or
    - a person who is also owner of the premises, or
    - a person who is also an occupier of the premises, or
    - a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph 2(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- quash the abatement notice to which the appeal relates, or
  - vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
  - dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit:-
- with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court:-
- shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
  - shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

**SUSPENSION OF NOTICE**

3. (1) Where:-
- an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and
  - either:-
    - compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
    - in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met.
- The abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where:-
- the nuisance to which the abatement notice relates:-
    - is injurious to health, or
    - is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice:-
- shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
  - shall include a statement as to which of the grounds set out in paragraph (2) apply.