



Appeal Decision

Site visit made on 19 September 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd October 2016

Appeal Ref: APP/Y2620/W/16/3152317

Land at 29 New Road, North Walsham NR28 9DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for 'continued use of land for hand car wash and valeting services and retention of canopy and two containers' for which a previous planning permission was granted for a limited period.
 - The appeal is made by Mr Mantas Meizeraitis against the decision of North Norfolk District Council.
 - The application Ref PF/15/1819 is dated 10 December 2015.
 - The application sought planning permission for 'continued use of land for hand car wash and valeting services and retention of canopy and two containers' granted planning permission for a limited period Ref PF/13/1335, dated 13 June 2014.
 - The permission is subject to a condition (1) requiring the cessation of the use and removal of the two containers, canopy and other associated paraphernalia on or before 31 December 2015.
 - The reason given for the condition is: In this instance the Local Planning Authority is only prepared to grant a temporary planning permission, on a trial basis, to enable the effects of the development upon the residential amenities of the surrounding area to be properly established, in accordance with Policy EN 13 of the adopted North Norfolk Core Strategy.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the use on the living conditions of the occupiers of surrounding properties with specific reference to noise.
 - Whether the use would be served by adequate drainage systems.

Reasons

Living conditions

3. The appeal site is situated to the rear of a larger commercial site which accommodates a number of small businesses, the majority of which are vehicle repair related. The other businesses are contained within buildings on the wider site. The site is bound by residential properties to the west by residential
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properties including number 27 New Road and number 23 New Road. The site is also bound to the north by the rear gardens of number 50 Hall Lane.

4. Permission was granted for a temporary permission for the continued use of the car wash and valeting services and retention of a canopy and two containers. Condition 1 states that the permission shall expire on 31 December 2015. The temporary use has, therefore, lapsed.
5. The Council consider that the layout of the proposal has been amended to comply with conditions 2 and 3 of the temporary permission. However, they consider that condition 5 which required a screen fence to be erected in order protect neighbours from noise pollution has not been complied with.
6. The cars are washed with a jet wash on the north eastern side of the site adjacent to the rear gardens of properties on Hall Lane. The canopy is situated to the south west of the site which is where the cars are vacuumed. I noted that the vacuum cleaners were housed within a wooden box which had been insulated. The cars are then polished and finished on the western boundary of the site.
7. Permission was granted on a temporary basis in order to assess the affect of the use on the living conditions of surrounding occupiers. Since the granting of the temporary permission and in spite of changes to the layout of the site and restrictive hours of operation, the Environmental Protection Team of the Council has received a significant number of objections from surrounding residents relating to complaints of noise nuisance.
8. At the time of my site visit (0930) I noted that there was some low level background noise arising from traffic along New Road. Whilst there are a number of auto-repair businesses on the larger site these are contained within buildings and consequently there was very little noise arising from those businesses at the time of my visit.
9. The use operates from 0800 to 1800 Mondays to Fridays and 0900 to 1700 on Saturdays and is closed on Sundays in line with the temporary permission. The car wash appeared busy with a steady flow of customers. There was intermittent noise arising from the use of the jet wash which could be clearly heard over the low level background noise arising from the road. The noise from the vacuum cleaner lasted for long periods and was still clearly discernable despite its enclosure within the box.
10. On the basis of observations on my site visit and taking into account the continuing complaints which have been received from the occupiers of surrounding residential properties, I do not consider that the measures which have been undertaken have sufficiently addressed the issue of noise.
11. The noise arising from jet wash, vacuum, car engines, customers entering and leaving the site and staff chatting disturbs the quiet enjoyment of the houses and gardens of numbers 23 and 27 New Road and number 50 Hall Lane which immediately adjoin the site. Consequently, the use has a harmful effect on the living conditions of existing occupiers.
12. The Council has suggested a number of conditions in the event that the appeal is allowed including the submission of a noise survey and details of noise control measures. However, given the close proximity of properties to the west and north I am not persuaded that the effects of the use on the occupiers of surrounding

properties could be satisfactorily addressed. There is no evidence before me to suggest that the noise arising from the site could be attenuated and given the close proximity of residential properties it would not be reasonable to leave the acceptability of any such noise measures to be approved by way of a planning condition.

13. For the reasons stated, I conclude that the use has an adverse effect on the living conditions of surrounding occupiers and is, therefore, contrary to Policy SS 3 of the North Norfolk Core Strategy (CS) (2008) which states that in designated residential areas appropriate residential development and compatible non-residential development including small-scale business, community, leisure and social uses will be permitted. Conflict also arises with Policy EN 4 of the CS which states that development proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers.
14. Furthermore, the proposal is contrary to Policy EN 13 of the CS which states that all development proposals should minimise and where possible reduce all emissions and other form of pollution.

Drainage

15. A condition was attached to the temporary permission requiring the submission of a scheme for the disposal of foul and surface water to be approved in writing by the local planning authority. The scheme should include details of disposal of foul drainage and surface water; the installation of oil and petrol separators; installation of trapped gullies; roof drainage and disposal of trade effluent.
16. I note that the Environment Agency has stated that it would not object to the use provided that a condition is imposed on any approval in respect of drainage details being submitted and approved. However, the condition attached to the temporary permission has not been complied with. The appellant has advised that he has complied with the requirements; however, there is no evidence before me to demonstrate that this is the case.
17. The Council are concerned that there is no guarantee that it would be complied with if the condition were reapplied and I share those concerns. However, I consider that a condition could have been attached to a permission requiring the appellant to comply with a strict timetable for the submission of drainage details and their subsequent implementation had I decided to allow the appeal. Such a condition would provide for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved and then implemented in accordance with an approved timetable. Should the requirements of the condition not be in line with the strict timetable, then the planning permission falls away.
18. This condition would have addressed the concerns regarding drainage issues at the site. I, therefore, conclude that with the suggested condition the issue of drainage could have been addressed had I decided to allow the appeal.

Planning Balance

19. The use is a successful business which contributes to the local economy and which provides a valuable service to the residents of the town which is evidenced by the letters of support received for the application. I have given this significant weight in my decision. However, I consider that the economic and social benefits of the

proposal are outweighed by the significant harm which I have identified to the living conditions of surrounding occupiers.

Conclusion

20. For the reasons stated above and taking all other considerations into account I consider that the appeal should be dismissed.

Caroline Mulloy

INSPECTOR