
Appeal Decision

Site visit made on 21 November 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 30 December 2016

Appeal Ref: APP/C4615/W/16/3157638

The Car Lot, land between 203-217 Halesowen Road, Netherton DY2 9PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Soran Kader against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P16/0413, dated 23 March 2016, was refused by notice dated 17 May 2016.
 - The development proposed is re-submission of previously refused application P15/1693 for change of use of existing car sales to part car sales and car washing and valeting.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - (i) the effect of the proposal on the living conditions of the occupiers of the neighbouring properties, with particular regard to noise and disturbance; and,
 - (ii) the effect of the proposal on the safe and efficient operation of the highway network.

Reasons

Noise and disturbance

3. *BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound* describes the methods recommended for the determination of noise levels at outdoor locations. The details are to satisfy the needs of the decision maker of the overall merits and dis-benefits of the proposal.
 4. The noise assessment report submitted in support of the planning application does not describe the method of assessment used. Furthermore, although the distance of the test meter from a location is noted, it is not clear where these positions are in relation to the site plan before me. It is also not apparent where underneath the canopy the car being washed was. Whilst the noise assessment report notes that the jet wash pump was *sited inside building with hose and spray gun outside under canopy*, a car being washed in the bay furthest from the road but nearer to the rear garden of No 217 Halesowen Road would have different implications for noise and disturbance and impact on
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the living conditions of the neighbouring occupiers than the bay towards the front of the site.

5. The site plan¹ implies that the car wash would operate from three bays beneath a canopy and therefore up to three vehicles could be washed at any one time. However, there is no explanation of this within the noise assessment report and no assessment of the implications this multiplicity of activities would have for noise and disturbance. I note that the noise assessment was conducted between 08:30 and 09:30 hours which is not inclusive of or representative of the hours which the car wash would be operating for. Furthermore, the report concludes that the proposal conforms to BS4241 and that an acoustic fence is erected, however, it is not clear why an acoustic fence is required based on the conclusions of the assessment.
6. In all, therefore, I find that the noise impact assessment is inadequate when assessed against the requirements of BS4241 and as a result I cannot be confident that the change of use would not have a harmful effect on the living conditions of the occupiers of the neighbouring properties with particular regard to noise and disturbance. The proposal would, therefore, be contrary to Saved Policies DD4 and EP7 of the Development Plan² which seeks to ensure that non-residential development within residential areas does not have an adverse effect on residential amenity.

Highway network

7. The Council's evidence notes vehicles parking on the highway as a result of a car wash that previously operated on the site. However, I have no details about the former use to know if the proposed car wash would operate in the same way and with the same intensity of activity as that proposed. Furthermore I have no details of the highway incidents referred to, to assess the severity of the problem highlighted.
8. Vehicles would move in and out of the site via separate access points. The site plan shows a staff parking space for the car wash near to the entrance to the site. When drawn to the scale of the adjoining car parking spaces and therefore to a size appropriate for the safe parking of a vehicle, the entrance would be narrower, sufficient for one vehicle to pass through at any one time as opposed to two. Vehicles would also pass close to the car sales area but there would be sufficient space between the two for any conflict between parked and moving vehicles to be averted. It is not indicated how many vehicles are expected to attend the car wash each day. However, based on the site plan before me, which demonstrates that several vehicles could access the site and be washed at any one time, and without substantive evidence to prove otherwise, I find that vehicles could queue within the site without obstructing moving vehicles on the highway.
9. I have details of accidents over the last 5 years on Halesowen Road which average a maximum of 1.5 accidents per year. This does not suggest substantive highway safety problems and in light of my findings above, I find no reason to consider that the change of use would exacerbate this accident record. I also note the letters of support before me which suggest that congestion is not a problem within the area although the observations are

¹ Ref 020815/2A

² Dudley Unitary Development Plan (October 2005)

largely anecdotal to which I can attach limited weight. Nevertheless, the evidence before me does not suggest that vehicles would queue in an obstructive manner to result in *a severe and unacceptable highway safety risk* in the way the Council suggests. I find, therefore, that the proposal would not have a harmful effect on the safe and efficient operation of the highway network and as a result would not be contrary to Saved policy DD4 of the Development Plan which seeks development that does not have a detrimental impact on highway safety.

Conclusion

10. I have found that the noise assessment report before me falls short of the requirements of standard BS4241 and therefore it has not been demonstrated that the development would not result in harm to the living conditions of the occupiers of the neighbouring properties with particular regard to noise and disturbance. Whilst I have found that the development would not have a harmful effect on the safe and efficient operation of the highway network, this does not outweigh the potential harm identified to the living conditions of neighbouring occupiers. For this reason, the development would be contrary to the development plan and therefore the appeal is dismissed.

R Walmsley

Inspector