
Appeal Decision

Site visit made on 24 April 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 22 May 2017

Appeal Ref: APP/A5270/W/17/3166959
41 Hastings Road, West Ealing W13 8QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Brettell of Greenwood Bell Limited against the Council of the London Borough of Ealing.
 - The application Ref: 164868FUL, is dated 21 September 2016.
 - The development proposed is the change of use from a garage (B2) to a mixed use of a car valet (B1) and a car washing (Sui Generis) facility.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a garage (B2) to a mixed use of a car valet (B1) and a car washing (Sui Generis) facility at 41 Hastings Road, West Ealing W13 8QH in accordance with the terms of the application, Ref 164868FUL, dated 21 September 2016, subject to the following conditions:
 - 1) No vehicular deliveries or refuse collections shall arrive, be received or despatched from the site outside the hours of 0800-1900 Monday to Saturday, with no vehicular deliveries or refuse collections on Sundays or Bank Holidays.
 - 2) The premises shall not be open for customers outside the following hours: 0800-1900 Monday to Saturday and 1000-1700 Sunday and Bank Holidays.
 - 3) Unless within 1 month of the date of this decision a scheme for the provision of refuse and recycling storage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 1 month of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 3 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved provision of refuse and recycling storage specified in this condition, that storage shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in
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this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) No amplified sound (including radios) shall be generated at any time within the site.
- 5) No car washing activity, vacuuming or internal cleaning of vehicles shall take on the forecourt. All works shall be contained to the internal space as identified on drawing PAB/HAS/01 – Proposed Carwash Operation Schematic Layout.

Procedural Matters

2. This appeal relates to the Council's non-determination of a planning application for a change of use from a garage to a car washing and valet facility. The Council resolved, in its appeal statement, that if they had the authority to decide the application, planning permission would have been refused. The reasons for refusal would have related to the effect of the proposal on the living conditions of nearby residential occupiers.
3. At the time of the site visit, the unit was non-operational. However, I am aware that the site has previously been in operation as a car washing and valeting facility. On this basis I will therefore deal with the appeal as a retrospective application.
4. The first line of the address on the planning application form refers to a vacant unit. However, although not operational at the time of the site visit, the unit contained materials and equipment to be used for the cleaning and valeting of vehicles. Accordingly, the first line of the address has been omitted from the decision.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the nearby residential occupiers of 40 Hastings Road and 47 Hartington Road, with particular regard to noise and disturbance.

Reasons

6. I am mindful of the planning history relating to the site and the fact that the site has been the subject of a previous refusal for planning permission¹. Furthermore, I note that the appellant has aimed to address the issues for refusal within their subsequent planning application, which is the subject of this appeal.
7. The appeal site is located on the northern side of Hastings Road, close to the junction with Drayton Green Road. The adjacent unit is Halfords Autocentre, which undertakes both mechanical repairs and MOT's. The site is designated as a Development Site (EAL11 West Ealing Station Approach) within the Ealing Development Management Development Plan Document 2013 (the DPD). However, the residential dwellings of 47 Hartington Road and 40 Hastings Road are located to the south and east of the site, with the flank wall of No 40 abutting the joint boundary of the appeal site.

¹ Council reference 161722FUL

8. Policy 7A of the DPD seeks to ensure that development which cause emissions of any sort do not result in the erosion of the amenity of surrounding uses or the site itself. Policy 7.15 of The London Plan 2016 (TLP) states that development proposals should seek to manage noise by avoiding significant adverse noise impacts on health and quality of life as a result of new development.
9. Due to the presence of a metal barrier, which can only be opened for access by the Council or the emergency services, the appeal site sits within a cul-de-sac. Accordingly, no vehicle movements associated with the car wash can occur beyond the barrier. The scale of the forecourt would allow 2 vehicles to be parked whilst waiting for cleaning. In addition, there is a substantial car park at the rear of the site, which is accessed by driving into and through the unit. From the submitted evidence, it is understood that this space is used to park cars left by customers for cleaning.
10. It is accepted that some noise will be generated by the arrival and departure of vehicles, such as car doors slamming and conversations being held. However, the location of the barrier restricts any vehicle movements within the residential area. Furthermore, parking in front of the appeal site is prohibited due to the presence of double yellow lines. As such, given the availability of parking on the site and parking restrictions, it is not considered that the scheme significantly impacts on the adjoining residential dwellings with regard to vehicle movements or parking which would give rise to a significant loss of amenity of the neighbouring occupiers.
11. An acoustic report prepared by KP Acoustics Ltd has been submitted by the appellant as part of this appeal in order to assess the effect of the proposal, with the revision C² being the most up to date revision. Objection was received from the Council in relation to revisions A and B of the report, relating primarily to the lack of assessment of the noise at the location of the sensitive receiver as a previous objection to the facility has been received and that insufficient information was provided.
12. The acoustic report confirms that the noise emissions at the nearest sensitive receiver³ were at such a level that at the actual location of the receptor it was indistinguishable from the ambient noise. Accordingly, actual noise readings from the equipment were taken at a distance of 1 metre, with a vehicle in situ. The report concludes that *'...the predicted noise impact due to car wash operations would be 1dB below the L₉₀ background noise. The Rating Level is therefore 1dB less than the background noise level, demonstrating that the noise from all operations would be comparable to the existing footprint of the area noise profile during operational hours.'*
13. The main roller shutter to the front of the unit is left open during operations, in order to enable vehicles enter and leave. However, it was evident from the site visit that the noise generating activities are located and executed towards the middle and rear of the unit. Furthermore an acoustic screen, which assists in reducing noise emissions, is located within the centre of the site and the motor of the jet wash is enclosed within acoustic housing.

² Revision C dated 31 March 2017.

³ 47 Hartington Road

14. It is acknowledged that the adjoining commercial unit does not trade on a Sunday. Consequently, the Council contend that as background noise levels are likely to be lower, neighbouring residents would experience a greater sense of disturbance on a Sunday. Furthermore, it is also accepted that Sunday is typically a day when car washing facilities experience a high demand.
15. From the submitted evidence, the facility currently employs 2 full time workers and one part-time worker, with the aim of increasing this to 3 full-time and 1 part-time, if trade increases. The National Planning Policy Framework 2012 (the Framework) states that the Government is committed to securing economic growth in order to create jobs and prosperity and that significant weight should be placed on the need to support economic growth through the planning system.
16. Alongside the fact that the acoustic report did not find any adverse noise impact from the use, the importance of securing local economic growth and jobs is also acknowledged. Nonetheless, if I were to allow the appeal, I consider it would be reasonable to impose a condition restricting the hours of operation on a Sunday and Bank Holiday, in the interests of protecting residential amenity.
17. Local residents have drawn attention to matters relating to litter, the display of advertisements, water pollution and the siting of the unit within a residential area. In relation to the issues of the production of litter and advertisements, at the time of the site visit, there was no evidence of a significant level of litter or inappropriately sited advertisements. It is noted that the visit only provides a snapshot in time; nevertheless neither of these issues have been raised by the Council as concerns. Furthermore, both are matters which can be controlled by the Council and I am therefore satisfied that appropriate measures could be implemented outside of this appeal to manage such issues.
18. The previous use of the site was a petrol filling station and the submitted evidence confirms that the existing drainage system incorporates an inline interceptor prior to the junction with the main sewer. Accordingly, I am satisfied that the discharge of waste water is adequately managed and no objection has been received from the Council in relation to this issue.
19. With regard to the siting of the unit, it is noted that the residential area beyond the metal barrier is designated as a 'Home Zone' which through a variety of traffic-calming measures and lower speed limits aims to make the area safer for residents. However, the location is designated as a Development Site and is adjacent to other commercial uses. Accordingly, given the physical barrier which separates the Home Zone and appeal site, it is not considered that the proposal would have any significant impact in terms of safety on the 'Home Zone' area.
20. The concern of the Council regarding the use of the site is acknowledged. However, no substantive evidence contrary to the acoustic report has been provided. Furthermore, I have found that the noise impact assessment confirms that the scheme before me does not cause any significant harm to the amenity of neighbouring residents and appropriate mitigation measures are already in-situ.

21. I therefore find that there would be no harm to the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance. The proposal would not, therefore, conflict with Policy 7A of the DPD, Policies 1.1(g)(J) and 2.10 of the Ealing Development (Core) Strategy 2012 and Policies 7.1 and 7.15 of TLP. When taken together these policies seek to ensure that development does not have an adverse impact upon the local built environment in terms of the amenity of the surrounding area. The proposal is also consistent with the aims of the Framework.

Conditions

22. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Government's PPG. I find the majority to be reasonable and necessary in the circumstances of this case; however some have been edited for precision and clarity.
23. A condition relating to plans is not necessary as the development has already commenced. Conditions relating to vehicular deliveries or refuse collections and the location of the car cleaning activities are necessary to safeguard the amenity of occupiers of nearby properties.
24. With regard to Sunday and Bank Holiday opening hours, it is acknowledged that to maintain economic viability the appellant has applied for hours of operation to be between 0900-1800. However, to safeguard the amenities of nearby occupiers, opening hours between 1000 to 1700 are appropriate in this instance.
25. The purpose of condition 3 is to require the appellant to comply with a strict timetable for dealing with both the provision and location of refuse and recycling storage which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.
26. A condition relating to the amplified sound, including the use of radios, on the site is considered necessary in order to minimise the effect of noise from the development on occupiers of nearby properties in the interests of residential amenity.

Conclusion

27. I therefore conclude that, subject to conditions, the appeal should be allowed.

Helen Cassini

INSPECTOR