
Appeal Decision

Site visit made on 16 May 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 06 June 2017

Appeal Ref: APP/V4630/W/17/3170196

62 New Road, Willenhall, WV13 2AQ

- 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 I Sabri against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 16/0454, dated 22 March 2016, was refused by notice dated 31 January 2017.
 - The development proposed is change of use of vacant unit to internal carwash/valet use.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I noted at my site visit that a car wash and valeting use was being operated from the appeal site. However, it did not appear to be operating from within the building as shown on the submitted plans but within the open yard area and the area shown as car wash parking bays. Therefore, in determining the appeal I have assessed the development as shown on the submitted plans.

Main Issues

3. The main issues are the effect of the proposed development on:-
 - Highway safety; and
 - The living conditions of nearby occupiers with regard to noise and disturbance.

Reasons

Background

4. The appeal site comprises part of a larger building and an open yard area. The remainder of the building and an open area adjacent to the junction of New Road and Wolverhampton Street have planning permission¹ to be used partly for clothes recycling and storage and as a car showroom with ancillary storage/offices/garage workshop and an MOT facility. I noted at my site visit that the garage/workshop and MOT facility was operating from the adjacent parts of the building and that the open area adjoining the junction was fully used to park cars.
5. The parts of the building shown to be used for clothes recycling and storage did not appear to be in use at the time of my visit. The appellant and a number of the neighbours have referred to a metal fabrication use on the site. The Council

¹ 15/1469

have stated that such a use does not have planning permission on this site. I noted at my site visit that there was an appreciable amount of metal items stored within the open yard adjacent to the proposed internal car wash area.

Highway safety

6. I have been provided with limited information with regards to how the car wash would operate but I note it would have parking spaces for 5 cars and an internal car wash and valeting area. The appellant has stated that the use would have one car wash/valeting bay and not 2 as stated by the Council. However, the internal space as shown is of sufficient size to cater for more than one bay.
7. The appeal site has two access points one to New Road and one to Wolverhampton Street. A one way system was to be implemented as part of the previous planning permission with vehicles entering via the New Road access and exiting from the Wolverhampton Street access point and this one way system would be implemented as part of this proposal. The appellant has stated that this could be controlled by way of a condition. In my experience such a scheme could not be easily enforced. I noted at my site visit that there were signs denoting entry and no entry at the access points but despite these signs a vehicle entered the site from the Wolverhampton Street access point.
8. The New Road access point is wide enough to cater for 2 vehicles passing each other. New Road is a busy thoroughfare and I noted that it constantly had traffic on it during the time of my site visit (mid-morning). The Highway Authority has confirmed that New Road carries just below 10,000 two way trips on a weekday average. The level of trip generation, for the proposal, assumed by the Council (based upon TRICS data) is based upon a one bay car wash, has not been disputed by the appellant and I have not been presented with any compelling arguments to lead me to conclude otherwise.
9. The number of trips generated would be around 49 per day if the car wash/valeting use operates with one bay. The appellant states that most people now wish to clean their cars themselves and as such commercial car wash uses are declining. However, in my experience such uses are still prevalent and can attract a high degree of trade. Furthermore, it was apparent at my site visit that due to its location, on a busy road, the car wash is capable of attracting customers in appreciable numbers.
10. There is no right turn filter lane on New Road for customers travelling along New Road from the east. Given the volume of traffic on New Road it is highly likely that any vehicles turning right into the site would have to wait within New Road to gain access. It would only require a small queue of cars to form along New Road for this to lead to significant backing up and this would soon result in significant congestion. Furthermore, vehicles waiting to turn into the site might result in other traffic taking avoiding action or undertaking other manoeuvres that would be disruptive to the efficient operation of the highway network in the vicinity of the appeal site, and so increase the risk to users of this busy route.
11. I note that there would be spaces within the site for vehicles to wait and that the appellant has stated that an operational management policy will be in use at the site. He states that this would ensure that when the waiting areas are full that a sign would be put up at the access and any new trade would be turned away. However, this relies on effective management, would be difficult to enforce and vehicles would still tend to stop and attempt to turn into the site before they are turned away.

12. I have no evidence before me in relation to the trip generation of the permitted use of the appeal site for a vehicle repair workshop. However, I note that this use was in connection with the car sales and MOT facility and that there was a condition imposed on the previous planning permission to ensure that all customers who visited the site did so through a previously arranged appointments system. As such I consider that trips would be likely to have been relatively low in number for the permitted use. Taking into account the nature of the proposed use and that visitors to the car wash would also be likely to stay for relatively short periods it has the potential to generate substantially more trips per day than the permitted use.
13. Taking into account all of the above I consider that the undertaking of the proposed use would be likely to significantly impede the efficient operation of the highway network in the vicinity of the appeal site and that this would be detrimental to highway safety. Consequently, the proposal would conflict with Policy TRAN2 of the Black Country Core Strategy (BCCS) and Policy GP2 of the Walsall Unitary Development Plan (UDP) which, amongst other things, seek development that is likely not to have significant transport implications and adverse traffic impacts. The proposal would also conflict with the policies of the National Planning Policy Framework (the Framework) in this regard.
14. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

Living conditions

15. I appreciate that the appeal site has a history of actual and permitted commercial uses including a garage and workshop which will have generated or had potential to generate noise. I also note that the appeal site is located on New Road which is heavily trafficked. However, I have been provided with little information regarding the noise generated by the previous lawful use of the appeal site, or how the proposed use of the site would relate to the existing noise environment, such as through an acoustic assessment.
16. I also have very limited information regarding the levels of potential noise which would be generated by the appeal proposal, how any such noise may be experienced at sensitive receptors, or how the proposal would relate to existing levels of noise.
17. To my mind, sources of noise and disturbance would arise from the use of jet washes, vacuum cleaners and that created by the comings and goings of patrons. The area to the south of the site is relatively busy with notable noise from the passing traffic on New Road. However, despite the proximity of the dwellings on Wolverhampton Street to the commercial uses, I noted at my site visit that this area to the north had a very different feel and was markedly quieter. The car wash would be located within a building that is opposite the residential dwellings on Wolverhampton Street with the submitted plan showing customers' exiting onto this road.
18. I note that the use would mainly operate within the building but it is usual for this type of business to keep the doors and shutters open whilst in use. When this is considered with the overall intensity of the operation of the site for seven days a week including Bank Holidays from 0900 till 1800 there would be little opportunity for respite from the use of the land for car washing and the associated noise and disturbance for residents. Furthermore, the car wash would give rise to noise at times when other commercial uses would be closed

including Sundays when car washing is likely to be in demand and background noise levels lower than during the working week.

19. I therefore conclude that the evidence in front of me does not offer sufficient clarity and robustness to be able to conclude that the living conditions of nearby occupiers would not be unacceptably harmed by noise and disturbance. Indeed from the evidence it seems likely that the car wash/valeting use would cause such harm given the overall intensity and hours of use and the proximity to noise sensitive uses. It follows that the proposal would conflict with BCCS Policy ENV3 and UDP Policies GP2, ENV32 and JP8 which, amongst other things, seek to ensure that development proposals properly take account of the context or surroundings and do not have an adverse impact on sensitive land uses and the environment.
20. The appeal proposal also fails to accord with the Framework which in paragraph 17 includes that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and paragraph 123 which states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

Other Matters

21. I note that the proposal would provide some modest economic benefits by providing employment and supporting the local economy but these would not outweigh the harm that I have identified above.
22. The appellant has referred to another car wash that has been approved. However, I do not have the full details of it before me and in each case the development proposals will be site specific. As a result I attribute little weight to it. In any case, I am required to determine this case on its individual merits.
23. The appellant has stated that he would be willing to accept a condition to allow the use for a temporary period. Planning Practice Guidance states that a temporary permission may be appropriate when a trial run is needed in order to assess the effect of a development on an area. However, in this case I consider that given the lack of substantive evidence on the issue of noise and disturbance that such a condition would not be appropriate in this case.
24. Any concerns regarding due process during the determination of the planning application fall outside of the remit of this decision.

Conclusion

25. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR