
Appeal Decision

Site visit made on 8 May 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/Q5300/W/17/3167880

Land adjacent to 5 Bourne Hill, Enfield, London, N13 4DA

- 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 Andreas Michaelides against the Council of the London Borough of Enfield.
 - The application Ref 16/04657/FUL is dated 13 October 2016.
 - The development proposed is Change of use from a storage yard to hand car wash facility with canopy to car wash area, improvement of existing vehicle accesses, installation of bi-fold gate to site exit and clear Perspex spray screen to existing fence.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andreas Michaelides against the Council of the London Borough of Enfield. This application will be the subject of a separate Decision.

Background and Main Issues

3. As set out above, this appeal is against the failure of the Council to determine the planning application and there is not, therefore, a formal decision of the Council. However, the Council's evidence makes it clear that, had it been in a position to determine the planning application, it would have refused planning permission. There have been two previous applications at the site that were subsequently dismissed at appeal¹ and these are material considerations.
4. In light of the above and having considered the submissions before me the main issues in the case are:
 - The effect of the change of use to a hand car wash facility on (a) highway safety and (b) the living conditions of existing occupiers, with particular regard to noise and disturbance.

Reasons

Highway Safety

5. The appellant states that use of the site would be for a maximum of 3 vehicles at any one time as shown on the submitted plans. The site layout would utilise an 'in' and 'out' arrangement for the cars using the site. I understand that the submitted tracking documents demonstrate that 3 vehicles could enter and be

¹ APP/Q5300/A/14/2227359; APP/Q5300/W/16/3143763

on site clear of the highway. However, the site is constrained and as such there would be limited spaces for any additional vehicles over and above 3 to wait off the highway. The same transport survey sets out that the appeal site can hold about 5 vehicles at any one time. The maximum number of vehicles being serviced on site is given as 12 per hour. As such the document identifies that there would be a maximum overspill onto the surrounding highway of about 8 vehicles per hour based on the figure of 5. If based on the tracking diagram submitted then this would potentially increase.

6. The Council describe Bourne Hill as a busy classified road. I understand that there are some waiting restrictions in place and some yellow line markings in place but that there is not a controlled parking zone. The appellant has undertaken a transport statement and within this considered the availability of parking nearby. Within the identified parking survey area it is suggested that at the busiest times of day parking uptake is only about 77%. In particular that at peak times in the morning and afternoon there would be an average of between 46 and 48 spaces available on street.
7. I appreciate that there may be on street parking available. However, the parking survey area plan demonstrates that this would not only be along Bourne Hill itself but on surrounding roads. I have doubts about the practicalities of this for a facility that is shown as a drive in and out arrangement. I have no information about how this would be managed. Nevertheless, even if a management plan were put in place for waiting vehicles, there would be vehicles coming to the site to be sent to park and then being brought back from surrounding parking spaces when there was space at the car wash. This in itself would not be passing or diverted trips and could generate vehicle movements and possibly manoeuvres on the highway. In addition it would not be possible for the operators to insist that cars are parked and that there would not be waiting for the facility. Given the level of predicted use I do not consider that there is sufficient space within the site for waiting or for manoeuvring.
8. Therefore even if I were to accept that the appellant could marshal some of the parking and manage the arrival and departure of staff the site would have inadequate parking for the use proposed and peaks in arrival and departure that would be very likely to result in more vehicles on site than could be accommodated. Furthermore the layout of the parking area would allow one or two cars to get partially onto the site behind the valeting bays. Customers using this area would potentially conflict with vehicles using Bourne Hill and the result of this would be that vehicles would back up. This would harm the free flow of traffic to the detriment of other highway users.
9. The appellant submits that the site is accessible by means of transport other than a car. I appreciate that for staff this has some relevance. However for the use of the site as a car wash it is clear that the customers are going to be arriving and departing in cars or other vehicles. As such this does not alter my conclusions on the substantive issues.
10. The appellant suggests that the highway impacts of the development would need to be 'severe' for it to conflict with the National Planning Policy Framework (the Framework). However, the courts² have clarified that '*...it cannot be the case that the government considers anything other than severe*

² Mayowa-Emmanual v Royal Borough of Greenwich [2015] EWHC 4076

impact on highway safety would be acceptable... Therefore it is not unreasonable to consider the highway impacts of this scheme.

11. I have carefully considered the transport assessment and clarifying remarks received since the last appeal decision. Nevertheless, I conclude that the proposed change of use would have a harmful effect on highway safety. It would be in conflict with policies CP24 and CP25 of the Core Strategy (CS), DMD37, DMD38, DMD45 and DMD47 of the Development Management Document (DMD) and 6.9 and 6.13 of the London Plan (LP) which seek to ensure that new developments are well designed, with adequate levels of car parking provision and do not have an adverse impact on the safe operation of the highway and free flow of traffic.

Living conditions

12. The appeal site is located adjacent to dwellings located at No 5 and No 3 Bourne Hill. These dwellings face toward the appeal site with front windows that face the common boundary with the site. The plans indicate that the existing storage sheds on this boundary would be retained for use for storage and an office and the existing fence would remain. Within the site a further shed would be used for storage and acoustically insulated for plant.
13. I understand that the scheme has not changed since the previous proposal was considered to be acceptable on the issue of living conditions. Nevertheless the Council remain concerned about the use of the equipment associated with the car wash. In particular the continuous nature of the operation over seven days a week. As with the previous appeal I have not been provided with substantive information from either party regarding background noise levels, noise of the proposed equipment and site operation or whether the mitigation from screens and insulation would reduce noise to an acceptable level. Further I understand that the locality is busy and that there is an existing car wash nearby.
14. However, whilst I note the conclusions of my colleague, without any substantive evidence I cannot be satisfied that the operation of the car wash would not be audible above the existing background noise level, whatever that may be. With this in mind and taking into account the close proximity of Nos 5 and 3 Bourne Hill I cannot conclude that the operation of a car wash seven days a week would not harm the living conditions of the occupiers of these properties.
15. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers, with particular regard to noise and disturbance. It would be in conflict with CS policy CP32, policy DMD68 and LP policy 7.15. It would also be in conflict with the Framework which seeks to secure a good standard of amenity for all existing occupiers of land and buildings.

Conclusion

16. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board
INSPECTOR