
Appeal Decision

Site visit made on 26 June 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 18th August 2017

Appeal Ref: APP/Y5420/W/17/3167296

Smart Tyres Ltd, 2A Haringey Road, London N15 3JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Shkelzen Gashi against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2016/3053, dated 9 August 2016, was refused by notice dated 10 November 2016.
 - The application sought planning permission for change of use for car repairs and car washing without complying with a condition attached to planning permission Ref HGY/1996/0988, dated 8 October 1996.
 - The condition in dispute is No 2 which states that:
 - *The use hereby permitted shall not be operated before 08.00 or after 1800 on Monday to Friday and not at all on Saturdays, Sundays or Public Holidays.*
 - The reason given for the condition is:
 - *This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished.*
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have used the planning application Ref HGY/1996/0988 referred to in the original planning application form and the appellant's appeal form. I have used this as the relevant reference number for this appeal although I note that the copy of the original planning permission supplied by Council also refers to planning application reference HGY/051643 in this case.

Background and Main Issue

3. Planning permission was granted for the change of use for car repairs and car washing at the appeal property in October 1996¹. The appellant seeks to vary condition No. 2 of the previous permission relating to the opening hours of the premises in order to allow opening times between 09.00 and 14.00 hours on Saturdays. The condition currently only allows the car repairs and tyre workshop use on the site to operate between 08.00 and 18.00 hours on Monday to Friday and at no time on Saturdays, Sundays and Public Holidays.

¹ HGY/1996/0988

4. Paragraph 206 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. With this in mind, the main issue is whether condition No. 2 is reasonable and necessary to safeguard the living conditions of the occupiers of the neighbouring properties with particular regard to the noise and disturbance associated with the current car repairs and tyre workshop.

Reasons

5. The appeal site comprises of a car repairs and tyre workshop building with residential use above situated at the southern end of Haringey Road. It is located in a predominantly residential area of high density terraced properties situated close to the commercial area on Green Lanes with a range of local services and facilities.
6. Saved Policy UD3 of the Haringey Unitary Development Plan 2006 (UDP) requires development not to have a significant adverse impact on residential amenity in terms of, amongst other things, noise, pollution, fumes and smell nuisance. Policy 7.6 of the London Plan 2016 (LP) states that development should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings. These policies are consistent with the Framework core principle of a good standard of amenity for all existing and future occupants of land and buildings.
7. Paragraph 123 of the Framework states that planning decisions should aim, amongst other things, to avoid noise from giving rise to significant adverse effects on health and quality of life as result of new development. The Planning Practice Guidance makes it clear that decision taking should consider the potential for an effect from noise and consider whether or not there would be a 'significant adverse' or 'adverse' effect that is likely to occur.
8. The current operation involves a certain degree of noise and disturbance associated with car repairs and the tyre workshop and noise sources from the other activities such as vehicular comings and goings and deliveries. I observed during my site visit that the area was busy, experiencing noise and disturbance associated with traffic and pedestrian movements and the surrounding uses and activities in the area.
9. Whilst I accept that the occupiers of the neighbouring properties would be used to a certain degree of noise and activity associated with the current operation and the surrounding uses particularly during the day and early evening, given the close proximity of the appeal site to the adjacent residential properties, the nature of the use and the planning history of the site, detailed evidence would be required to justify the proposed extended opening hours. However, no noise surveys or any other quantitative evidence has been submitted by the appellant to justify the proposed extension of the opening hours. In the absence of a noise assessment undertaken by a competent acoustic consultant, I cannot conclude whether or not a 'significant adverse' or 'adverse' effect would be likely to occur.
10. I note that both the Council's Environmental Health Team and Planning Enforcement Team have indicated that the premises is subject to complaints regarding noise and disturbance and that the use is currently the subject of

enforcement action for use outside of the permitted hours. These complaints relate not just to the use of mechanical equipment associated with the current operation of the premises but also disturbance from vehicles entering and leaving and being manoeuvred around the site.

11. The proposed opening hours on a Saturday would likely to be at a time when many residents in the surrounding residential properties would be at home for the weekend. The occupants of these properties would be carrying out household and leisure activities in their homes and gardens, where they currently enjoy the quieter ambiance that contributes to the character of this primarily residential area. I consider that the extended opening hours would be likely to cause an increase in noise and disturbance at these times and as such would adversely harm the amenity of the area.
12. I have considered the appellant's statement that the appeal site had been previously used as a car wash that created more noise and disturbance than the current use. However, this is not the matter under the consideration in this appeal and based on the limited evidence provided has different development characteristic to the appeal scheme. I also note the appellant's desire to cater for many clients who work on weekdays and the loss in revenue as result of current opening hours. However, these benefits are outweighed by the harms identified above. I therefore afford these matters limited weight in this case.
13. Consequently, I conclude that condition No. 2 is reasonable and necessary and that the proposed opening hours would adversely harm the living conditions of the occupiers of the neighbouring properties with particular regard to noise and disturbance. It would therefore conflict with the overall amenity aims of LP Policy 7.6, Saved UDP Policy UD3 and Policy SP11 of the Haringey Local Plan 2013 that require development, amongst other things, not to have a significant adverse impact on residential amenity and not cause unacceptable harm to the amenity of surrounding land and buildings.

Other matters

14. I have noted the issues raised by the appellant regarding the communication and the way in which the application was processed by the Council. However, these are not a material consideration to which I can attach significant weight.
15. I have noted the petition of support from local residents and businesses for the proposed opening hours. However, whilst I acknowledge this support this does not overcome the adverse harms identified above and the lack of substantive evidence provided to justify the proposal. It therefore limits the weight I can give to these matters in making my decision. I have noted the objections raised by local residents. However, in light of my findings on the main issue of the appeal, my decision does not turn on these matters.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, I conclude that condition No. 2 should not be varied and the appeal should be dismissed.

David Troy

INSPECTOR