



Appeal Decision

Site visit made on 4 June 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2019

Appeal Ref: APP/E2205/W/19/3221781

Airtech House, Eastmead Avenue, Ashford, Kent TN23 7RX

- 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 A.J.R. Cadenhead against the decision of Ashford Borough Council.
 - The application Ref 17/01873/AS, dated 15 December 2017, was refused by notice dated 10 August 2018.
 - The development proposed is change of use only, with no building works, from existing B1/B8 (workshop/store) to "Sui Generis" – motorcycle workshop with MOT bay and ancillary sales.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the planning application was refused, Ashford Local Plan 2030 (LP) was adopted in February 2019. Therefore, this must now be given full weight in the decision making process. The Council have provided copies of the relevant recently adopted LP policies and the appellant has been given the opportunity to respond, and so has not been prejudiced.

Main Issue

3. The main issue is the effect of the proposed use on the living conditions of nearby residential occupiers on South Stour Avenue, with particular regard to noise and disturbance.

Reasons

4. The appeal site relates to a vacant commercial building, located on the corner of Eastmead Avenue and South Stour Avenue. The building consists of an office area at the front and a workshop area at the rear. The site is located within the Eastmead Trading Estate in a mixed use location with commercial and residential properties.
5. I understand¹ that the site was previously used as a Class B1(c) light industrial use, though as the site is currently vacant there were no signs of recent use at the time of my visit. The appeal building lies next to a group of semi-detached residential properties on South Stour Avenue.

¹ Taken from the application form and Officer's Report

6. The proposed motorcycle workshop with MOT bay and ancillary sales would operate from 9am to 5pm Monday to Fridays and from 10am to 4pm on Saturdays². The noise report prepared by MRL acoustics explains that the proposal is to move both the MOT motor cycle workshop and an associated motor cycle clothing unit from the Ellingham Way site to the proposed site at Airtech House. It is further stated that the business deals with MOTs for small motor cycles, typically between 50cc – 125cc models and does not carry out any major repairs or bodywork.
7. The proposed MOT motorcycle workshop would be located directly adjacent to the neighbouring residential property and rear garden of Chatsworth, South Stour Avenue. Whilst the noise report concludes that the new workshop would have a low noise impact upon neighbouring residential amenity, the Council's Environmental Health Officer has raised an objection to the proposal and lists a number of concerns with the submitted noise report. These includes that: no assessment of background noise levels(EHO) on a Saturdays have been provided, which he considers is likely to be quieter than on a weekday; no details of meter calibration (to UKAS standards) has been provided; and that section 3.5 details the SI values of the walls and roof, but no source has been provided for this data. Therefore, based on this missing information the EHO questions the reliability of the noise report.
8. Notwithstanding the conclusions of the noise report, I consider that the proposed use would result in significant noise and disturbance from the numbers of 'comings and goings' to the site. Noise associated with the proposed use includes the opening and closing of large rear doors of the workshop when customers, staff and motorcycles enter and exit the workshop, the starting and revving of motorcycle engines, and discussions between customers and staff within the site and car park area.
9. Furthermore, noise and general disturbance resulting from the MOT workshop and outside parking area would be a relatively frequent occurrence, which includes Saturdays, between 10am and 4pm at a time when existing neighbouring occupiers should reasonably expect a quieter living environment. Noise from the workshop and the parking area at this time would be more intrusive and consequentially more harmful. This would be particularly noticeable during summer months when residents are likely to have windows open for ventilation, and more likely to be using their gardens for alfresco dining and for play space / relaxation.
10. I note that the appellant states³ that if the Council had carried out a visit to the appellant's existing site, they would have seen that 80% of the business is sales and that only 20% is for repairs and MOT's. However, this contradicts the details submitted within the planning application form which states that the description of the development is for the "*change of use from existing B1/B8 (workshop/store) to "Sui Generis" – motorcycle workshop with MOT bay and ancillary sales*". As such, the appellant's own description indicates that sales would be "ancillary". In addition, section 23 of the planning application form states that the activities and processes which would be carried out on the site would be "*assembly, repair, MOT and servicing of lightweight motorcycles*". Therefore, to indicate during the appeal process, that the proposed business

² Taken from the application form.

³ Email to the Planning Inspectorate received on 17 April 2019 22:27

would be 80% sales is inconsistent with the details outlined in the planning application form.

11. I also note that there are other commercial / industrial uses near to the dwellings on South Stour Avenue, and that Airtech House was previously a factory for the manufacturing air conditioning units⁴. However, the proposed motorcycle MOT workshop would be expected to result in a relatively large number of comings and goings of customers associated with the MOT servicing use and in this regard, the parking area and proposed workshop would be more intensively used. This would result in more noise and disturbance to the existing adjacent neighbouring occupiers.
12. I therefore conclude that there would be unacceptable harm to the living conditions of nearby residents with regards to noise and disturbance. Accordingly, there would be conflict with LP Policy EMP1 which amongst other things seeks to ensure that there would be no significant impact on the amenities of any neighbouring residential occupiers. There would also be conflict with paragraph 127 of the National Planning Policy Framework which requires development to create places that achieve a high standard of amenity for existing users.

Other matters

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have found conflict with the development plan with regard to likely impacts on local living conditions.
14. I recognise that the nature of the use is acceptable in principle within this industrial estate on the edge of the town centre of Ashford. Whilst there is no clear evidence of a particular need for this type of use, it would nevertheless bring a vacant building back into use and create a number of jobs. However, these economic benefits do not justify the likely harm identified above. In addition, there is little before me to suggest that similar benefits could not be derived from the reuse of the building without the harm taking place. Nor do I consider that the lack of objection from neighbouring occupiers overcomes the harm I have identified. There are therefore no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion

15. For the reasons given above, and taking all relevant matters into account, I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR

⁴ Taken from the appellant's statement.