



Appeal Decision

Site visit made on 18 June 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Appeal Ref: APP/R0660/C/18/3218424 79 Union Street, Sandbach CW11 4BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Artan Kertolli against an enforcement notice issued by Cheshire East Council.
- The enforcement notice was issued on 13 November 2018.
- The breach of planning control as alleged in the notice is the unauthorised material change of use from a car repair garage to a use for the washing and valeting of motor vehicles and the erection of a Perspex acoustic barrier in the approximate position between points A – B shown on the plan attached to the notice.
- The requirements of the notice are:
 - A. Cease the unauthorised use of the land for the washing and valeting of motor vehicles.
 - B. Remove from the land in its entirety the unauthorised Perspex acoustic barrier in the approximate position between points A – B on the plan attached to the notice.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Application for costs

1. Applications for costs were made by Cheshire East Council against Mr Artan Kertolli and by Mr Artan Kertolli against Cheshire East Council. These applications are the subject of a separate Decision.

Procedural Matter

2. My attention has been drawn to drawings which show an amendment to the existing Perspex screen which has been erected along the boundary of the site. The appellant considers that the amendment addresses the concerns that have been raised by the Council and a previous Inspector. However, where new drawings are presented at the appeal stage which show new works which may overcome the planning objections there is no mechanism for incorporating them into the application which is a deemed planning application based on the development as alleged in the enforcement notice.
3. I am aware of the planning history of the site, including the application which the local planning authority declined to determine.

Main Issues

4. The main issues are the effect on the living conditions of the occupants of nearby residential properties with particular reference to noise, disturbance and visual intrusion.

Reasons

5. The appeal site is a commercial building and associated land situated on Union Street where there are residential properties in close proximity. The property is currently being used for washing and valeting motor vehicles and I also observed at my site visit that a Perspex screen has been erected adjacent to the boundary with the closest residential properties which back directly on to the appeal site. The development involves the use of a range of equipment including powered jet wash hoses and vacuum cleaners.
6. I have noted that a Noise Assessment has been submitted by the appellant in support of the appeal proposal. The report concludes that, subject to mitigation measures, the facility can be operated without unreasonable impact on the adjacent residential properties. The mitigation measures include the high Perspex screen that has already been installed on the boundary with the adjacent residential properties and the continuation of that barrier to adjoin the existing garage building.
7. The Perspex screen provides a barrier to both noise and water spray, but the high powered bursts of noise from equipment remains clearly audible in the vicinity of the residential properties. The character of that noise over prolonged periods of time would be intrusive and a cause of disturbance to users of the adjacent gardens.
8. During my site visit on a mid-week morning the car washing and valeting use was busy with a regular flow of traffic and vehicles being washed and valeted. It is likely that the facility would be busier at weekends and indeed the evidence from local residents states that is indeed the case during periods when residents are more likely to be at home and are most likely to be using their private gardens for rest and relaxation. Consequently, the intensive use of the premises during weekends, in particular, would be significant in terms of its effect on the living conditions of residents. The level of noise and disturbance would fail to ensure an acceptable standard of living for those residents, particularly given their close proximity to the appeal site and their relatively small gardens.
9. Although in theory the Noise Assessment concludes that the development would result in there being acceptable living standards for local residents, the reality of the situation may be different, especially given the character of the noise generated by the washing and valeting activities.
10. The appellant also makes the point that the description of the alleged breach which refers to motor vehicles suggests a much wider use than what actually occurs on site. I understand that the size of the site restricts the size of motor vehicles that can use the facility but I consider the description used by the Council is accurate and reflects the activities taking place on a site which may include cars and other small vehicles such as vans, for example.
11. I recognise that there is some background from other sources in the locality, including some background traffic noise, but that is not as intrusive because it

is a more constant relatively low level of noise and very different in character to the noise from the activities the subject of this appeal.

12. The Noise Assessment also suggests that a noise management plan could be implemented which incorporates procedures to minimise noise. Measures could include keeping closed at all times two of the three roller shutters on the eastern façade of the garage and using new jet washer nozzles with a wider bore to decrease the velocity of water striking a vehicle and thus reduce noise levels. Although I can understand that these measures may reduce noise levels to a degree, there is insufficient evidence before me to be clear that the resultant noise levels would adequately mitigate the problem.
13. The site was previously used for car repairs, but that use is unlikely to operate as intensely as the car wash at weekends, nor is it likely to have a constant flow of traffic. The evidence before me also shows that the existing car washing and valeting business once operated from a nearby car park. However, that site is at a lower level than the appeal site and is not directly adjacent to residential properties which are noise sensitive receptors.
14. The high Perspex screen that has been erected in order to mitigate noise impacts is situated in close proximity to existing residential properties and is a highly prominent from the street scene as well as from the properties themselves. It is highly visually intrusive and prominent feature and is at odds with the mainly residential surroundings. Given its poor relationship to residential properties and its overall height and scale it is a visually incongruous and undesirable feature within its surroundings to the detriment of nearby residential properties. To extend the screen as suggested by the appellant would exacerbate the level of visual intrusion in the locality.
15. I have considered the conditions suggested by the appellant but have insufficient evidence that these or other measures, including those set out in the Noise Assessment, would satisfactorily mitigate the harm I have identified.
16. Therefore, I conclude that the development has a significant harmful effect on the living conditions of the occupants of nearby residential properties with particular reference to noise, disturbance and visual intrusion. As such it is contrary to Policies GR6 and GR7 of the Congleton Borough Local Plan First Review Adopted 27 January 2005 (the Congleton Local Plan) which, among other objectives, seeks to ensure that new development does not have an unduly detrimental effect on the amenity of neighbours due to visual intrusion and environmental disturbance. Development will not be permitted which would be likely to lead to significantly increased noise pollution.
17. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission for the deemed application.

Formal Decision

18. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

A A Phillips INSPECTOR