
Appeal Decision

Site visit made on 2 July 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2019

Appeal Ref: APP/T5150/W/19/3228193

3 Coventry Close, London NW6 5TJ

- 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 Mint Auto Wash Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref: 18/3190, dated 7 August 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the change of use of open storage into car wash and erection of a canopy.
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Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mint Auto Wash Ltd against the Council of the London Borough of Brent. This application is the subject of a separate Decision.

Procedural Matter

3. Following the submission of the appellant's Statement of Case, the Council has confirmed that it has withdrawn the second reason for refusal, which pertained to highway matters. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposed car wash would comply with the local planning policy regarding the retention of local employment sites;
 - the impact upon the living conditions of the occupiers of adjoining properties, with particular reference to noise and disturbance; and
 - the impact of the development upon flood risk.

Reasons

Suitability of the site

5. The appeal site is currently in use as a storage facility for a coach business and, in policy terms, is categorised as a Local Employment Site (LES). Some vehicle preparation is also carried out on site.

6. The proposed car wash does not fall within Classes B1, B2 or B8 of the Use Classes Order (as amended). Therefore, it is not categorised as an employment use. Owing to the nature of this sui generis use, it is not closely related to an employment use. Accordingly, Policy DMP14 of the Brent Local Plan Development Management Policies (2016) (the Local Plan) is relevant. This seeks to retain the use of LES for employment unless it can be demonstrated that such sites are no longer viable, or that there are significant benefits, consistent with the wider objectives of the Development Plan.
7. There is no evidence before me indicates that the site is no longer viable for such local employment use, or that it has been marketed for alternative uses. Indeed, the appellant has confirmed that the site would remain in use as a coach storage facility in the event of planning permission being refused, albeit with a potential downscaling of activities. Accordingly, the proposal fails to comply with Policy DMP14 as the site is, and will remain, in use.
8. Policy DMP 14 allows for consideration of whether proposals would provide significant benefits which may justify the release of LES. In this case the appellant states that up to five full time and two part time jobs would be created. Whilst this is noteworthy, it is a relatively small gain. Given that a form of the existing use would be retained, and with it, some jobs, the number of additional employment opportunities would not be significant enough to offset the harm arising from the loss of the LES.
9. I appreciate that the proposed development may be responding to a local need, which may be of some benefit to the community in the form of increased convenience. However, such benefits are comparatively small in scale and localised in impact. In consequence, I do not believe that this would contribute to the wider objectives of the Development Plan.
10. I conclude that the site is unsuitable for the operation of a car wash and the proposal fails to comply with Policy DMP14 of the Local Plan, which seeks to retain employment uses unless the site is unviable, or the replacement use would offer significant benefits consistent with the wider objectives of the Development Plan.

Living conditions

11. The site is south of a railway line, and adjacent to a Royal Mail distribution centre, which is visited by commercial vehicles. The surrounding land uses include a Royal Mail distribution centre, residential flats and a variety of commercial and leisure uses in the nearby Kilburn High Road. Accordingly, the area's character is defined by the presence of noise generating uses, some of which may operate during early mornings and late evenings. Although the site is close to residential properties, these are separated by the railway line, and Coventry Close itself.
12. I appreciate the appellant's intention to focus on hand car washes. However, the proposed use would generate some noise in the form of vehicles manoeuvring and the possible use of equipment (such as vacuum cleaners or pressure washers). These activities would take place against a backdrop of existing noisy activities. This means that the generated noise would not be a significant departure from the existing character and would not be unduly intrusive, particularly given the road and railway line that adjoin the site.

13. I have given weight to the fact that the existing use requires the movement of vehicles, and that they are washed and cleaned on site. These activities are also likely to generate some noise comparable to the proposed use.
14. I therefore conclude that the development would not lead to an adverse impact upon the living conditions of the occupiers of neighbouring properties. In this regard the proposal is in conformity with Policy DMP1 of the Local Plan, which seeks, amongst other matters, to ensure that proposed developments are of a location and use that does not impact upon the conditions of neighbouring properties and complement the locality.

Flood risk

15. It has been confirmed that the existing coach storage use of the site includes an element of vehicle cleaning. Whilst this may take place less frequently than would be the case with the proposed use, there is no evidence before me which indicates that this has caused flooding or drainage problems either on the site, or elsewhere (including the railway line).
16. The appellant has submitted a drainage assessment. This demonstrates that a Sustainable Urban Drainage system could be installed at the site. Through a variety of measures, it is noted that the system would prevent excess water from leaving the site in an uncontrolled fashion. This would also prevent the water from entering the railway line. The erection of a canopy would prevent spray from the operation of pressure washers affecting the railway line. The submitted flood risk assessment, subject to the installation of the mitigation works, demonstrates that the development would not increase flood risk on the site, or elsewhere.
17. Therefore, had I been minded to allow this appeal, I could have imposed conditions requiring the installation of the drainage system and the construction of the canopies prior to the first use of the car wash and for these to be kept in place, and maintained, throughout the life of the development.
18. I conclude that the development would not exacerbate flood risk either on the site, or elsewhere. The development, in this instance, is in conformity with policies DMP1 and DMP9 of the Local Plan, which, amongst other objectives, require that developments minimise the risk of flooding on site, nor increase flood risk elsewhere, and include appropriate flood mitigation.

Other Matters

19. I have had regard to the information provided regarding the appellant's reputation in their business activities and the fact that they have been able to expand to acquire additional facilities elsewhere. I have also noted the business plan that has been submitted in respect of the proposed car wash. However, it is incumbent upon me to decide this appeal in the public interest. I therefore do not believe that these matters outweigh the significant policy breach and harm identified.

Conclusion

20. I have not found harm in relation to the living conditions of the occupiers of nearby properties and flood risk. However, the proposal would result in a significant policy breach regarding the loss of a local employment site. For this reason, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR