



Appeal Decision

Site visit made on 16 December 2019

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 06 January 2020

Appeal Ref: APP/R5510/C/18/3213712

Land lying to the south east of Trout Road, Yiewsley, West Drayton UB7 7XT

- 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 Peter Murphy against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 11 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission the use of land for car repairs and the commercial storage of vehicles (Use Class Sui Generis).
 - The requirements of the notice are
 - i) Cease the use of the land for car repairs;
 - ii) Cease the use of the land for the commercial storage of vehicles;
 - iii) Remove all motor vehicles, tools, equipment, machinery and signs associated with the use of the land for car repairs
 - iv) Remove from the land all debris, waste, building materials, plant equipment and machinery resulting from the compliance works.
 - The period for compliance with the requirements is one (1) calendar month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

Appeal Ref: APP/R5510/C/18/3213712

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The s174 appeal on ground (a) and the deemed planning application

Introduction and Main Issues

2. The appeal site comprises what the appellant says is approximately 23 garage units arranged in lines around the site boundaries. I asked to see inside each of the units but only four were opened for inspection. Two were empty although there was evidence of car repair activity in the other two, most notably in what the appellant refers to as the workshop in the north-east corner. The manoeuvring space in the centre of the site was however crowded in a haphazard manner with, mostly, cars in varying states of repair and roadworthiness.

3. Access to the site is via a narrow, gravelled track between two residential properties on St Stephens Road. This road is aligned as a crescent with, at each end, a junction with High Street, a commercial area with typical town centre uses. There is a mix of uses along St Stephens Road including various commercial enterprises and a school. However, in the immediate vicinity of the appeal site the properties are residential with the appeal site lying immediately to the rear of the private residential gardens.
4. Having regard to the reasons for the notice being issued and my inspection of the site and the surrounding area, the main issues for my determination of this appeal are therefore the effect of the development on:
 - (a) the living conditions of the neighbouring occupiers with particular regard to noise and disturbance; and
 - (b) highway safety with regard to vehicle movements into and out of the appeal site.

Reasons

The living conditions of the neighbouring occupiers

5. Neither party has undertaken any noise monitoring at the appeal site. The Council's case relies almost wholly on the complaints it has received from local residents. Although it refers to a 16-signature petition, this does not appear to have been provided in evidence unless it is a reference to the series of identical letters provided by the adjoining neighbour.
6. These take the form of letters signed by residents of properties on St Stephens Road. However, they are identical (although the first page appears to be missing from most) and appear to have been offered for signature. The appellant has also submitted a number of letters in support of the development; these too are identical and also appear to have been offered for signature. As the addresses of all of these are those from where letters of objection have also been generated, I cannot be sure about the circumstances in which they have been signed; I therefore give very little weight to any of this evidence.
7. However, the Planning Inspectorate has also received two further letters in addition to that from the immediately adjoining neighbour. Together, these three speak to the conditions both on the site itself and on the highway as a result of the development taking place.
8. Noise from the activities at the site appears to be the most important source of disturbance to the local residents. Apart from the general comings and goings (which are the focus of the appellant's evidence on this issue), reports are made of the noise from machinery used. Although the appellant has instituted a voluntary hours-of-operation restriction (and there are several signs around the site and on the entrance gate to state the hours and the need to, in effect, 'keep the noise down'), all the third party evidence is that these hours are largely ignored by those working at the site. Consequently, noise and disturbance is generated at unsocial hours and, sometimes, throughout the night.
9. However, the evidence is that the disturbance is not limited to that caused by noise. Damage has been caused to the fencing of the adjoining property by the way vehicles have been stacked against it. There have been fires at the

premises, possibly caused by the manner in which machinery has been used. This caused residents to be excluded from their homes for a period of time. It is alleged also that vehicles are parked and repaired on the highway and often left in a condition that could endanger those, including primary school children, passing the site.

10. The appellant has not challenged any of these allegations although neither the first nor the third were apparent during what was my pre-arranged site visit.
11. The noise scheme condition suggested by the Council does not give sufficient guidance to the appellant to enable a suitable scheme to be submitted for approval. It would not therefore meet the tests set out in the Planning Practice Guidance. I acknowledge that a condition restricting the hours of operation could be imposed as suggested by both the Council and the appellant. However, this would simply limit the periods of disturbance to local residents rather than prevent it occurring.
12. Allowing the development, even with an hours-restriction condition, would, in my view, simply continue the dissatisfaction with their living conditions due to the noise from the neighbouring activity experienced and expressed by local residents, albeit over a shorter period of the day if enforced effectively. The Hillingdon Local Plan Part 1 – Strategic Policies (SP), adopted in November 2012, recognises this as a factor associated with poor mental well-being and thus poor health. The development therefore conflicts with SP policy BE1 which seeks to create, among other things, a built environment where people will enjoy living and working. It would also conflict with saved policy BE19 of the Unitary Development Plan (UDP), adopted in 1998 and saved in September 2007, which seeks to ensure that new development within residential areas complements or improves, among other things, the amenity of the area. The noise and disturbance created would do neither.

Highway safety

13. There are two aspects to the Council's concern on this issue.
14. The first concerns what local residents identify as the unlawful use of the highway for working on vehicles and parking in an area that is limited to those with residents' parking permits between the hours of 9.00 and 18.00 Monday to Saturday. The Council regards this as detrimental to the safety of both pedestrian and vehicular highway users and the free flow of traffic.
15. The way the highway is said to be used may well be evidence of the unsuitability of this restricted appeal site for the unauthorised use, but the Council has the powers to enforce the parking restrictions that it has put in place. Indeed, during my site inspection, the Council's parking attendant was in St Stephens Road. In my view, this does not amount to a policy conflict.
16. The second concerns the nature of the access and, in particular, its width and the absence of the requisite visibility in both directions along St Stephens Road. I note that a condition requiring such a visibility splay was imposed when allowing, albeit for a limited period of 12 months only, the appeal that is included at Appendix E of the appellant's appeal statement. The use then permitted was for car parking and the access was also to St Stephens Road. There is no evidence before me that the required splay could be achieved within land under the control of the appellant.

17. As already mentioned, the parking of vehicles within the site was haphazard. It would, in my view, have been difficult to turn a vehicle within the space available to enable exit from the site in forward gear. That was confirmed during my site visit when two vehicles had to leave the site by reversing into the traffic flow on St Stephens Road. That is an inherently risky manoeuvre. It may be possible to achieve a parking layout within the site to avoid this but neither party has suggested that would be appropriate. I note that a condition to that effect was also imposed by my colleague in allowing the appeal referred to above thus reinforcing my concern on this issue.
18. The appellant argues that weight should be given to the claimed fall-back position of the traffic movements generated by the historic use as private residential garages.
19. On the appellant's evidence, the garages were constructed in the 1970s. Although in appearance they are typical of a remote block provided for residential properties without off-street parking at each premises, neither party gives evidence about the lawful use of the site. The appellant's contention that *"the current use of the Site is considered to generate fewer vehicle movements than if it were to be used for its original use as residential garages. It is reasonable to assume that fewer vehicle movements generate less noise nuisance and disturbance"* (emphasis added) therefore has no evidential basis.
20. I therefore conclude that the development carried out would conflict with UDP policy AM7 which, among other things, confirms that planning permission will not be granted for development that prejudices the free flow of traffic or conditions of general highway or pedestrian safety. The Council also cites UDP policy AM2 as being breached. However, this is directed mainly towards the capacity of both the highway network and public transport and appears to be of limited, if any, relevance.

Other matters

21. I have considered the conditions suggested by the appellant. I have addressed the proposed hours restriction under my first main issue. Similarly, restricting vehicle repair and other activity to within the garages would not address some of the issues identified, particularly those causing a conflict with UDP policy AM7. In any event I consider 'and other activity connected with the use' to be ambiguous; the condition does not therefore meet the tests in the Planning Practice Guidance. I agree that the proposed lighting and use restriction conditions would be appropriate if the principle of the development was acceptable. However, for the reasons given above, it is not.
22. The use currently employs about five people. No evidence has been given that these people would become unemployed following compliance with the notice.
23. It is also argued that there are several similar businesses operating in the local area, some of which I noted during my visit to the area. However, I have not been informed of the planning circumstances of any of these, in particular, the planning conditions under which they operate.
24. I appreciate that, if implemented, the redevelopment of the Rainbow and Kirby Industrial Estates would see parking provision in association with the permitted mixed-use development on the area now occupied by the appeal site. Although not stated clearly, the inference I draw from the appellant's evidence is that

this too would cause noise and disturbance to the occupiers of properties on St Stephens Road. In my view, it is very likely that the Council would have taken this into account when considering the mixed-use development scheme. In any event, as I have set out under my first main issue, the noise and disturbance caused by the development is not limited to, or even principally caused by, vehicle comings and goings. Rather, it is by the activities themselves.

25. As there is no appeal on ground (g), it is not clear to me why the appellant has brought the appeal¹ on land to the north-east of the appeal site to my attention.
26. None of these other matters outweighs the conflict with the development plan that I have found. The appeal on ground (a) does not therefore succeed.

Conclusion

27. 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 on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Brian Cook

Inspector

¹ APP/R5510/C/18/31956