
Appeal Decision

Site visit made on 20 December 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2020

Appeal Ref: APP/R0660/W/19/3238558

Paul Shaw Autos, Newcastle Road, Congleton, Cheshire CW12 4JX

- 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 S Isa against the decision of Cheshire East Council.
 - The application Ref 19/3427C, dated 18 July 2019, was refused by notice dated 11 September 2019.
 - The development proposed is the change of use to mixed use comprising of MOT station, car repairs and hand car wash.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Isa against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue is the effect of the car wash on the living conditions of adjoining occupiers, with regard to noise and disturbance.

Reasons

4. The appeal site is located off Newcastle Road and is currently used for vehicle repairs, an MOT testing station, and car sales. The surrounding area is predominantly residential, and the site shares its rear and side boundaries with the gardens of 1 and 2 Padgbury Close. No 2 also has a first floor window that directly overlooks the northern part of the site. Marsh House to the south, is a three storey residential building with upper floors that have windows facing across the site.
5. At the time of my visit the car repairs and MOT testing station were operating from within the workshop building, and the external areas beneath the canopy and in the northern part of the site were being used for cars sales. Whilst the existing vehicle repair and MOT testing station are likely to use machinery and generate some noise, these activities take place within an existing building, which is likely to assist in containing the noise associated with the use. In comparison the proposed car wash activities are to take place outside, albeit partially beneath a canopy.
6. Whilst the appellant seeks to retain planning permission for the vehicle repairs and the MOT testing station, the proposed site layout (Drawing EPPE FPSA NR

HW 16-07-10 Rev.0) suggests that vehicles using the car wash would pass through a one way system, accessing from the south and leaving from the north. The car wash layout shows customer parking and three queuing lanes in front of the building leaving little room to access and operate the existing vehicle repairs and MOT testing station. Overall this indicates that the car wash would become the predominant use of the site. Given the number of vehicles indicated on the drawing, it is likely to be more intensive in terms of the number of customers, staffing, the throughput of vehicles and the associated activities.

7. The appellant submits that the current lawful use of the site does not have any planning conditions restricting the times of working/opening. There is no evidence before me relating to the existing lawful use, or indeed any such restrictions. However, even if I were to accept there are currently no time restrictions, the appeal proposals are materially different to the existing use of the site. The external car washing activities would result in additional noise beyond that created by the existing activities, including the coming and going of vehicles, engines running, doors closing, and staff talking, and potential use of radios onsite. Such noise and disturbance is likely to prevent adjoining occupiers from being able to have windows open or enjoy the use of their gardens, in particular those residents at 1 and 2 Padgbury Close.
8. Whilst I understand that the existing car sales are likely to occur all week including on Saturdays and Sundays, the use is likely to generate fewer customers, require less staff and have lower levels of activity than the proposed car wash. Residents have become accustomed to the existing uses with minimal noise and disturbance at the weekends. In contrast, the introduction of the external car wash facility open six days a week, including the reduced hours on Saturday, is likely to result in materially different noise conditions that would disturb adjoining occupiers.
9. I have considered the proposed noise barriers to the southern boundary of the site adjacent to the entrance of Marsh House, and to the north western boundary adjacent to No 2 Padgbury Close. However, no noise survey has been provided, and there is no evidence before me that these barriers would adequately mitigate against the potential noise and disturbance that is likely to arise from the car wash.
10. I note from the appellant's statement that a noise survey report was submitted with the previous appeal APP/R0660/W/19/3220120, and that the appellant considers this to be relevant. However, the report has not been submitted with this appeal, and is therefore not before me to consider.
11. I understand that this proposal differs from that dismissed by the previous Inspector, as working hours would be 09:00 to 17:00 Monday to Friday, 09:00 to 14:00 on Saturdays, with no operations on Sundays and bank holidays, the layout has been amended, and washing and valeting would be done by hand. Whilst I appreciate these would in part address the previous Inspector's concerns, in my opinion given the proximity to neighbouring residential properties the activities associated with the hand car wash, would create a more intensive use of the site, and would likely cause an unacceptable level of noise and disturbance to adjoining residents.

12. Whilst the Council's Environmental Protection team have not provided comments in relation to noise, this does not alter my findings in relation to the harm that would be caused to the living conditions of neighbouring occupiers.
13. I have considered whether the identified harm by reason of noise and disturbance could be overcome by conditions restricting the proposed hours, and that no machines are to be used. However, I am not satisfied that such conditions are sufficient to overcome the harm that I have identified to the living conditions of occupiers of nearby residential properties.
14. I conclude that the proposed car wash would harm the living conditions of neighbouring residents, with regard to noise and disturbance. It would not accord with Saved Policy GR6 of the Congleton Borough Local Plan First Review (2005) which seeks to ensure that new development does not have a detrimental effect on the amenity of adjoining residential properties, with regards to, amongst other things, environmental disturbance and pollution.

Other Matters

15. I note the representation regarding the improved appearance of the site. However, this does not alter my findings on the main issue.
16. I further note the appellant's concerns in relation to the Council's consideration of the application. However, this is a matter between the parties, which does not affect the planning merits of the development upon which I have determined the appeal.

Conclusion

17. For the reasons given above, the appeal is dismissed.

R Cooper

INSPECTOR