



Appeal Decision

Site visit made on 14 January 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/J0350/C/19/3230230

Land at 79-83 Uxbridge Road, Slough SL1 1SG

- 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 Menderes Kurshumliu against an enforcement notice issued by Slough Borough Council.
 - The enforcement notice was issued on 24 April 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission:
 1. Unauthorised change of use of the land as a carwash and valeting use (Sui Generis Use) ("Unauthorised Use")
 2. The Unauthorised Development of a portable cabin, container shipping storage unit and metal framed covered canvas canopy on the land ("Unauthorised Development")
 - The requirements of the notice are:
 1. Cease the Unauthorised Use.
 2. Remove the Unauthorised Development – the portable cabin, container shipping unit and metal framed canvas canopy from the land.
 3. Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by deletion of the phrase 'Operational Development' in the fifth line of the notice. Subject to this correction the appeal is dismissed and 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.

Preliminary Matter

2. In the fifth line of the enforcement notice appears the phrase 'Operational Development'. It is clear from sections 3, 4 and 5 of the notice that it refers to a material change of use as well as operational development. The main parties have dealt with the appeal on this basis and so no injustice is caused by me correcting the notice in this way.
3. The evidence indicates the site has previously been subject to a temporary planning permission for a carwash which has expired. But full details of that permission, including its conditions, have not been provided so I cannot be certain the development before me is the same development that was the

subject of the temporary permission. As such, I have considered the appeal development as it has been described in the enforcement notice.

4. During this appeal the appellant submitted a revised scheme to the Council. However, the Council declined to determine this revised planning application, drawing on powers under section 70C of the above Act. Consequently, the appellant requested that the new application drawings be considered within this appeal.
5. Under section 177 of the Act, in an enforcement appeal, planning permission may be granted under ground (a) only in respect of the matters stated in the enforcement notice. So the deemed planning application for the enforcement appeal cannot include another scheme or amended plans, to resolve the enforcement issues and I have determined this appeal on this basis.

Reasons

The ground (a) appeal

6. The main issues in the ground (a) appeal are the effect of the development on (i) the character and appearance of the area, and (i) highway safety.

Character and Appearance

7. Taken together, Core Policy 8 of the Slough Local Development Framework Core Strategy 2006 – 2026 (the Core Strategy) and Policies EN1 and EMP2 of the Local Plan for Slough 2004 (the Local Plan) seek that all development is of a high quality design which improves its surroundings.
8. The appeal site sits between a mosque and a two storey, brick-built, pitched-roof parade of shops with dwellings above. On the opposite side of the road is a hotel and a large supermarket. Behind the appeal site is a network of streets lined with two storey terraced houses.
9. The appeal site is a former petrol station. It has a very wide street frontage on to a main road, making it prominent within the street scene. The appeal development includes a portable cabin, shipping container and a large rectangular canopy and operates as a carwash. Overall, it has a temporary and industrial appearance and so whilst the character and appearance of the area is mixed, the appeal development appears incongruous in this context.
10. Whilst the buildings associated with the use may be typical of such a temporary use, it has already existed for a considerable period of time and so I am not satisfied that the development is temporary or that, therefore, its character or appearance is acceptable in light of the above development plan policies. In my judgement, the appeal development detracts from the character and appearance of the area and is harmful therefore. Consequently, it does not comply with Core Policy 8 of the Core Strategy or Policies EN1 or EMP2 of the Local Plan, noted above.

Highway Safety

11. Policy EMP2 of the Local Plan permits business development if, amongst other things, it can be accommodated upon the existing highway network without causing additional congestion or creating a road safety problem.

12. The National Planning Policy Framework (the Framework) states that in assessing specific developments it should be ensured that any significant impacts on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. In addition, it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
13. The site has two accesses on to the main road. This is the A412 Uxbridge Road. It is a busy 40 mph dual carriageway with a crash barrier running down the middle. As such, access into the site from this road can only be achieved by turning left into the site and left out. From the information provided and my observations on my site visit, as currently operated, vehicles enter the car wash from the southern access, are washed and/or valeted, and then exit the site from the northern access.
14. The Council is concerned that, during peak car washing periods, cars have been witnessed queuing to enter the site. It is said that cars sit either in lane 1 of the dual carriageway, meaning passing vehicles need to manoeuvre into lane 2, or over the footway, meaning pedestrians have to navigate around queuing vehicles. In addition, it is said that cars have been witnessed reversing out on to the highway. In this context, in my judgement, each of the above are adverse effects on highway safety.
15. No evidence has been provided to dispute the above claims. There is a short distance between the site entrance from the highway and the location where cars are washed and valeted. So whilst the appellant may not be aware of any incidences of queuing, based on my own observations of how the carwash operates I am not satisfied that queuing on to the highway has not occurred or that it will not occur in the future.
16. The northern access is very close to a pedestrian crossing over Uxbridge Road. Due to this proximity, in my judgment, it is more likely that drivers concentrating on finding a gap in the traffic to pull out of the carwash may not see a pedestrian on this crossing.
17. I realise the site had a previous use as a petrol filling station. But there is no evidence to indicate the carwash operates in the same way the petrol filling station did or that the operation of the petrol filling station had no harmful effect on highway safety. In any event, refuelling a car takes considerably less time than washing and/or valeting it. So I do not consider the two uses to be comparable in terms of their likely queuing effects at peak times and the consequential effect on highway safety.
18. Considering all of the above points, based on the information provided and my own observations, in my judgement, the car wash as currently configured has an unacceptable impact on highway safety and creates road safety problems. As such, it does not comply with Policy EMP2 of the Local Plan or the highway safety policies of the Framework.

Conclusion on the ground (a) appeal

19. Considering each of the main issues for the ground (a) appeal, the appeal on ground (a) fails.

The ground (g) appeal

20. I have taken into account the request for more time to comply with the requirements of the notice and enable the appellant time to look for another site and give notice to its employees. But I have balanced this against the harm identified above in respect of highway safety and so I am not satisfied extending the period of compliance to 12 months as requested would be appropriate in this case. Carrying out the requirements of the notice would not require skilled persons so I am satisfied that 1 month is a reasonable period of time to carry out the requirements of the notice. As such the appeal on ground (g) fails.

Other Matters

21. Correspondence received from the appellant refers to a ground (f) appeal yet this was not pleaded when the appeal was lodged or before the statement deadline, meaning the Council did not have the opportunity to respond to this ground.
22. In any event, the appellant's position in this regard is reliant on their revised scheme which, as set out above, cannot be considered within this appeal. The purpose of the enforcement notice is to remedy the breach of planning control, and considering the above points, there are no lesser steps that have been suggested which would achieve the purpose of the notice. As such, based on the information provided, an appeal on ground (f), had it been pleaded, would fail.

Conclusion

23. For the reasons given above I conclude that the appeal does not succeed. I uphold the enforcement notice, as corrected, and refuse to grant planning permission on the deemed application.

L Perkins

INSPECTOR