



Appeal Decision

Site visit made on 15 January 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/X1355/W/19/3239937

Vacant Land next to no 5 Front Street, New Durham, Durham City DH1 2EP

- 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 Amen Kareem against the decision of Durham County Council.
 - The application Ref DM/19/01160/FPA, dated 20 March 2019, was refused by notice dated 13 September 2019.
 - The development proposed is Proposed Hand Car Wash Business on vacant site at Front Street, New Durham.
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Decision

1. The appeal is dismissed

Main Issues

2. These are the effect of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of residential properties near to the site.

Reasons

3. The site is located adjacent to the A181 road/Front Street in New Durham. It is enclosed on one side by the rear of a retail store, part of a larger retail park. To the rear of the site are allotments, where a close boarded timber fence has recently been erected. To the other side are houses including Whitewell House on Front Street. Facing the site on the other side of the main road are terrace houses.
4. The overall character of the area is suburban and includes a mix of residential, recreational and commercial uses. In this context the proposed hand car wash business would appear as an addition to the retail area.
5. It is suggested that the site has recently been scraped to remove topsoil and grass, a contention supported by a mound of material remaining on site. Both the appellant and the Council have submitted photographs showing the site prior to the recent works from which it can be seen that it was previously an open, mainly grassed, area.
6. It has been suggested that the site previously had some value as public open space. It is apparent from the planning application that the site is privately owned, and despite the previous uses, including keeping horses, the site does

not seem to have any formal status as public open space. That does not mean that, as a green space in a built up area, it made no contribution to the character and appearance of the locale and even in its current condition it provides a visual and physical break between the residential area around Frank Street and the south of Front Street, and the retail park.

7. The proposal would include the erection of a 0.6m high brick wall along the frontage with Front Street, incorporating the access, on top of which would be 0.8m high signs and a 2m high timber fence to the sides and rear. On the outside of the wall, a landscaped strip would be provided. Within the site there would be parking spaces, a car wash area, a storage cabin or container, a valeting car port and timber cabin for the site office and customer waiting room. There would also be some form of acoustic barrier, around 3m in height, within the centre part of the site. Visually, the site would appear enclosed and the structures within it would generally be low in height. Overall, the built structures in the proposal, together with the car washing which would be ongoing during opening hours, would have the effect of bringing the commercial area closer to the residential area and erode the existing sense of a gap between the respective land uses.
8. The area is not designated as a Conservation Area, nor is it close to other heritage assets. That does not mean that the character and appearance of the area is a matter of little weight. Whilst the proposal seeks to achieve an acceptable visual relationship with its surroundings, it would not overcome the harm which would arise as result of the permanent loss of green space.
9. I therefore conclude that the proposal would cause significant harm to the character and appearance of the area, contrary to Policy E5A of the City of Durham Local Plan (CDLP)¹ which protects open spaces which contribute to the small scale character of an area from development. It would also conflict with Policy EMP11 which requires that new businesses outside areas designated for employment use should not have an adverse effect on the character and appearance of the area, and Policy H13 which states that planning permission will not be granted for development which adversely affects the character and appearance of residential areas. CDLP Policy Q7 requires new business development to be of an appropriate standard, which would not be met in the case of the proposal, and Paragraph 127 of the National Planning Policy Framework requires that new development should add to the overall quality of an area, which would not be achieved under the proposal.

Living Conditions

10. The proposal would be close to existing houses at Whitewell House, Frank Street and also on the opposite side of Front Street. Given the nature of the proposal, principal concerns are the comings and goings of customer vehicles, and spray and noise from the jet wash process.
11. The A181 Road is a busy route. The appellant has suggested that the proposal would cater for approximately 6 customers per hour². In this context the noise and disturbance from customer vehicles arriving and leaving would not be significant in terms of the living conditions of residents.

¹ Adopted May 2004

² Ryedale Environmental Sound Level Survey and Impact Assessment Section 7 page 17

12. The appellant has submitted a noise assessment in support of the proposal. This focusses on the possible noise impact at 2 locations, Whitewell House and 16 Front Street. It looks at 3 particular sources of sound, the spray wash unit, the vacuum cleaner and the noise of the impact of the jet wash on car bodywork. It is based on a number of assumptions including that the use of the jet wash would be intermittent, as it would not be used whilst cars were being valeted, and also that the jet wash unit itself would be kept inside the storage unit.
13. The Council's Senior Environmental Health Officer (SEHO) has questioned some of the assumptions of the noise assessment. For example, based on experience of such developments elsewhere in the Council's area, he would expect the use of the jet wash to be almost continuous during busy times. He also suggests that the tonal element of noise from the lance may mean that the penalty of 5dB, proposed by the Council in pre application advice, would not be sufficient to determine necessary mitigations. He states that the noise from the site could be expected to be present and intrusive, in particular when road traffic was low, leading some residents to adjust their behaviour, for example keeping windows closed. He acknowledges that given the existing noise levels in the area the impact would not be of sufficient duration to be a statutory nuisance.
14. The appellant's noise assessment seeks to address the issues associated with the proposal and includes a number of mitigations including the proposed acoustic barrier to the Front Street side of the jet wash area. However, the SEHO has raised a number of significant concerns over the methodology which have not been addressed in the appellant's statement. The point that the proposal may not lead to impacts which could be subject to statutory nuisance action does not alone overcome any concerns over the living conditions of nearby residents. He advised that were the Council to grant permission the opening hours should be limited to avoid early mornings and late evenings and with reduced hours on Sundays or Public Holidays.
15. I have been referred to a similar proposal at a site in Bedlington, granted planning permission in September 2019. I note from the plan supplied that there appears to be one residential property close to the site, however it is suggested that in that case the car washing is to be carried out inside a building, a point not disputed by the appellant. As such, I find this other case to have substantial differences to the appeal proposal. Moreover, I do not have full details of it before me and therefore I give only limited weight to it. Notwithstanding this, and in any event, I must assess the proposal before me on its own merits and confirm that I have done so.
16. It has been suggested by some interested parties that other factors such as the type of detergents used in the spray wash and run-off from the site could be a possible cause of harm. However, I have no firm evidence to support these points and base my decision on the effect of the noise that would arise.

17. Bringing the above together, I conclude that the proposal would harm the living conditions of residents living near to the site due to the noise arising from the jet wash operations and would therefore conflict with Policies EMP11 and H13 of the CDLP. Amongst other things, these policies require that development outside employment areas should not have significant adverse effects due to increased noise or general disturbance, or affect the amenities of residents. Furthermore, paragraph 180 of the Framework requires that new development should mitigate and reduce potential for noise impacts that would otherwise give rise to significant impacts on the quality of life.

Other Matters

18. The Framework is clear that planning decisions should help to create conditions in which businesses can invest, and significant weight should be given to supporting economic growth³. The appellant expects that the proposal would give rise to 4 full time jobs and I acknowledge that there would be some benefit in economic terms. Nonetheless, whilst the Framework identifies the need to recognise the locational needs of businesses, there may be other premises in the local area which would be capable of accommodating the use without causing the harm which I have identified.

Conclusion

19. For the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR

³ National Planning Policy Framework February 2019 paragraph 80