



Appeal Decision

Site visit made on 10 February 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Ref: APP/Z4718/C/19/3239852

Former Police Station, Wakefield Road, Moldgreen, Huddersfield, West Yorkshire HD5 8DJ

- 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 Amir Alnajafi against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The enforcement notice was issued on 12 September 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission: The material change of use at former police station to vehicle wash and associated siting of container.*
 - The requirements of the notice are to cease the use of the land for the use of vehicle washing and the siting of a container and remove the container from the land.
 - The period for compliance with the requirements is 4 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Summary Decision

1. The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a)

2. The Council's principal reason for issuing the notice was that an unacceptable level of noise disturbance to nearby neighbours resulted from the use of the site. Additionally, the Council considered that there was insufficient information upon which to assess the control of drainage and water run-off from the site. These are therefore the main issues in the appeal on ground (a).
3. A planning permission was granted for the use of the site as a car wash in 2018. It was granted temporarily in order that impacts on the highway network could be assessed, which the main parties now agree are not a reason to refuse permission. However, the 2018 permission was predicated on the retention of the then-existing police station building, situated towards the rear of the site, and its use for housing the compressor, as required by condition 4. A further condition, No 5, required the approval of an acoustic barrier fence to the western boundary of the site, adjoining residential properties, and its installation prior to the commencement of the use. In the event the police station building was demolished, and the compressor is presently housed in the steel container placed in the centre of the site. A wooden fence has been erected to the western side of the site although without the Council's formal approval of the details.

Noise

4. As noted by the appellant's noise consultants, noise at the site and neighbouring properties is heavily dominated by road traffic noise from the A629 which immediately abuts the site's northern boundary beyond the footway. Nonetheless the 'worst case scenario', as assessed by the appellant's consultants, which includes the presence of the existing fence and container, is that background noise levels would be exceeded by 12dB at the receptors 'A', 348 Wakefield Road, and 'B', 1 to 17 Rothwell Street. At receptor 'C', 369 and 371 Wakefield Road, the exceedance is by 2dB. The impacts are described respectively as significant adverse and adverse on those receptors, and that additional mitigation is therefore required.
5. The appellant's noise report explains that acceptable mitigation can be achieved by including solid, imperforate screens at the western edges of the jet wash and vacuum areas as well as covering the open front of the compressor enclosure. The screens are described as having solid, imperforate cantilevered roofs covering 2.5m width from the screen edge.
6. Whereas a drawing showing the proposed locations of these screens was included with the appellant's noise report submitted with the appeal, no drawing of them has been supplied except for *Figure 3: Mitigated Site Layout* that was provided with the appellant's final comments on the appeal. Whilst a technical solution to the adverse noise impacts experienced by neighbours appears to be available, neither those neighbours nor the Council have had sufficient opportunity in these appeal proceedings to consider or comment on any other planning consequences that might arise from the proposed mitigation measures. The limited drawings available, which are not sufficient to allow a full assessment of what is proposed, appear to show that quite significant operational development is required, potentially affecting the overall appearance of the site.
7. Therefore, without being able to assess the detailed mitigation proposals and in the absence of sufficient consultation with interested parties about them, I am unable to conclude that the development can be made acceptable overall. Without any further mitigation measures, however, the development is unacceptable by reason of the adverse noise impacts on neighbouring residents in conflict with Policy LP52 of the Kirklees Local Plan of February 2019.

Drainage

8. As the appellant points out, the previous planning permission was granted on the basis that surface water drainage works could be approved and installed via the imposition of a planning condition. On my site visit I observed the location of the interceptor and have no reason to conclude that satisfactory drainage arrangements cannot be achieved by a planning condition that would secure compliance with Local Plan Policy LP28 in this respect.

Conclusion on the appeal on ground (a)

9. Although the Council's concerns in respect of drainage are not a reason to dismiss the appeal, I am presently unable to conclude that the currently unacceptable adverse noise impacts of the development can be overcome by mitigation measures that are also acceptable in all other respects. Therefore I refuse to grant planning permission on the deemed application.

The appeal on ground (f)

10. The appellant does not suggest any different steps under ground (f) from those identified under ground (a). The purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place, and no lesser steps have been suggested that would achieve this purpose. Therefore the appeal on ground (f) does not succeed.

Other matters

11. A number of other matters have been raised by neighbouring residents, including the hours of operation, the impact on the highway network, the disposal of refuse, the use of floodlights, and the visual impact of the container on the site. I consider that none of these matters gives rise to insurmountable objections, and could be controlled where necessary by appropriate planning conditions.
12. Additionally, the proximity of the site to the listed buildings at the Tolson Museum has been referred to. The desirability of preserving the importance of designated heritage assets acquires considerable importance and weight in assessing development proposals, and I have paid special regard to the statutory duties in this respect. Neither of the main parties consider that any heritage assets would lose any significance as a result of the development as it presently exists, and I agree with that assessment. However, the impact on heritage assets may be a matter for consideration if a proposal for some additional acoustic fencing were to come forward.

Conclusion

13. 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 deemed application.

Formal Decision

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

Laura Renaudon

INSPECTOR