



## Appeal Decision

Site visit made on 18 February 2020

**by S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

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**Appeal Ref: APP/T5150/W/19/3242040**

**3 Coventry Close, London, NW6 5TJ**

- 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 Mint Auto Wash Ltd against the decision of the Council of the London Borough of Brent.
  - The application Ref 19/3199, dated 9 September 2019, was refused by notice dated 7 November 2019.
  - The development proposed is described as "Change of use from open storage to open storage and car wash to include the erection of canopy (personal planning permission to Mint Auto Wash Ltd)".
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### Decision

1. The appeal is allowed, and planning permission is granted for the Change of use from open storage to open storage and car wash to include the erection of canopy (personal planning permission to Mint Auto Wash Ltd), at 3 Coventry Close, London, NW6 5TJ, in accordance with the terms of the application, Ref 19/3199, dated 9 September 2019, subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by the Council of the London Borough of Brent against Mint Auto Wash Ltd. This application is the subject of a separate Decision.

### Main Issue

3. The main issue is whether or not the proposal would result in the unacceptable loss of a local employment site (LES) during the working day.

### Reasons

4. At present, the site is used for open storage, which parties agree is an employment use, although not the Council's preferred use of the site. This use generally takes place outside what would be considered the normal working day, with coaches parked and stored on the site overnight, but operated and maintained elsewhere during the working day. The appellant has no intention to cease that use, vacate or sell the site should this appeal be unsuccessful.
5. Policy DMP14 of the London Borough of Brent Local Plan November 2016 Development Management Policies document (the Local Plan) seeks amongst other things to encourage appropriate mixed-use environments, local employment generation and the continued provision of employment sites. The

- policy only allows the release of an LES to non-employment uses where specific criteria are met.
6. During the normal working day, the site lies vacant and unused, and my site visit confirmed this as being the case. The proposed use of the site as a car wash during the working day would be additional to the existing, overnight storage use. The proposal would not therefore result in the loss of an LES during the working day, as it is not available at present and there is no intention to cease the current overnight use.
  7. I do not consider that the lengthy comparison which the Council draws between the appeal proposal and a theoretical use based on the site area and potential floor-space for various use-classes is relevant. It relies on the site being available for such a theoretical development to take place, and the evidence makes clear that it is not. That the Council considers the current use neither the best, nor their preferred use for the site is not sufficient reason, in my view, to prevent the use of the site from being intensified by this proposal.
  8. The proposal would not therefore lead to the harm alleged by the Council and would in fact lead to the creation of additional employment on the site. I have not found it necessary to consider whether or not viability information has been provided in line with the Policy DMP14 criteria as the proposal is additional to that use which is already taking place on site, rather than for a release, which would engage the criteria in that policy.
  9. Parties have referred to Policy E7 of the Emerging London Plan. Although this policy does encourage the intensification of business uses, it is limited to specific use classes. As such, I consider the policy to be of limited relevance to this appeal.
  10. The Council highlights that in the emerging London Plan, the London Borough of Brent is to provide capacity for industrial floorspace, and that the appeal proposal would compromise this. In light of the evidence before me that the site is not available for any other use and there is no intention to cease the overnight, open storage use, I do not consider this to be the case. For the same reasons, I do not consider that the appeal proposal would remove the land from the possibility of intensification under employment uses. I also do not consider that this proposal, with its very specific circumstances and context would create any irresistible precedent or harm to other LES's.
  11. The Council has drawn my attention to a previous appeal on this site<sup>1</sup>, and suggested that as this proposal is not materially different, my decision should follow in the same way. However, the proposal before me is materially different from the previous appeal, in that this proposal intends the car wash use to take place in addition to the open storage use. As such my conclusion is different from but not in conflict with that of the previous Inspector.
  12. I therefore consider that the proposal is not contrary to Policy DMP14 of the Local Plan as it does not seek the release of an LES to a non-employment use and is acceptable in all other regards. I also consider that the proposal would comply with guidance in the National Planning Policy Framework (the Framework) to build a strong, competitive economy through the creation of additional employment.

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<sup>1</sup> Appeal Reference 3228193

## **Other Matters**

13. I note the objections from third-parties, which raise concerns over the effect of the proposal on the highway network, neighbouring residential amenity and drainage as well as on over the compatibility of the proposed use with other, nearby uses. Whilst I acknowledge these comments, I am guided by the Council, who are satisfied that the proposal is acceptable in all regards but for its compliance with Policy DMP14. I note that the Council's position on any highway network impacts have not changed in response to the objection from Royal Mail. As neither the evidence before me, nor my observations during my site visit persuade me otherwise, I consider that the proposal would be acceptable in terms of its impact on the highway network, neighbouring residential amenity and drainage, and that it would be compatible with other, nearby uses.

## **Conditions**

14. I have assessed the conditions suggested by both parties, and their comments thereon against the tests in the Planning Practice Guidance (the PPG). I have imposed a standard condition requiring compliance with the submitted plans, necessary to ensure the satisfactory appearance of the completed development and that the use does not cause any adverse highway effects. I have also imposed conditions relating to hours of operation and drainage details, necessary in order to ensure that the development is compatible with the surrounding uses and makes appropriate provision for the control and disposal of surface water.
15. The appellant has requested that any permission granted through this appeal be subject to a personal permission, to allay the concerns of the Council that the proposed use of the site is an alternative rather than additional one. I note that the Council does not consider such a condition to be necessary. Having had regard to the guidance in the PPG on this point, I agree that a condition limiting the permission to Mint Auto Wash Ltd would not be appropriate and would not meet the relevant tests. However, I do consider that it is appropriate and reasonable to link the daytime use of the site as a car wash to the overnight use of the site for open storage, such that the former should cease if the latter should also cease. This would ensure that the use proposed in this appeal remains additional to, and not an alternative to the overnight use. As such the condition is a variation on that proposed by the appellant and considered by the Council, I consider it meets the tests in the PPG and would mean that this condition would not come as a surprise to the appellant or Council.

## **Conclusion**

16. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

*S Dean*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. That the development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, ZAAVIA/3CC/104 Issue C, ZAAVIA/3CC/101 Issue C, ZAAVIA/3CC/103 Issue B, IC/311/01/01, IC/311/01/02, IC/311/01/03, and the SuDSmart Pro strategy contained at Appendix 7 (pages 90-138) of the Bbox 2019 Planning Design and Access Statement.
3. The car wash hereby permitted shall only operate between the hours of 0800 and 1800 from Monday to Saturday, and between 0900 and 1800 on Sundays and Bank Holidays.
4. Prior to the first use of the car wash hereby approved, the SuDSmart Pro drainage system and strategy contained Appendix 7 of the Bbox 2019 Planning Design and Access Statement, and canopy as illustrated on drawing ZAAVIA/3CC/103 Issue B, must both be constructed and operational, and must be kept in place, utilised, and maintained, throughout the life of the development.
5. When the use of the site for open storage ceases, the use hereby permitted shall cease and all material and equipment brought onto the site in connection with the use shall be removed.