



Appeal Decision

Site visit made on 14 November 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2020

Appeal Ref: APP/R5510/C/19/3224406

Land at 11 New Broadway, Uxbridge Road, Uxbridge, Middlesex UB10 0LJ

- 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 J Ferati against an enforcement notice issued by the Council of the London Borough of Hillingdon ('the notice').
 - The notice, numbered 3E04/HS/014799, was issued on 7 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from the sale of motor vehicles to use as a hand car wash and valeting business.
 - The requirements of the notice are to: (1) Cease the use of the Land for the use as a hand car wash and valeting business; (2) Remove the canopy structure associated with the hand car wash and valeting business from the Land; (3) Remove the two vacuum cleaners associated with the hand car wash and valeting business from the Land; and (4) Remove from the Land all fixtures, fittings, machinery and equipment that facilitate the use of the Land as a hand car wash and valeting business.
 - The period for compliance with the requirements is one (1) calendar month after the notice takes effect.
 - 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. 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.

Procedural Matter

2. In January 2020, the Council adopted The London Borough of Hillingdon Local Plan Part 2: Development Management Policies (DMP). This replaced the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies, November 2012, (UDP). Its Policies OE1, OE2, OE3, AM2 and AM7, which were referred to in the Council's decision, have played no part in my decision.
3. The Council submitted copies of DMP Policies DMHB 11, DMEI 14 and DMT 2 as being relevant to the allegation in the notice. The appellant was given an opportunity to comment on them but did not do so. I have taken the DMP policies into account in my decision.

The appeal on Ground (a)

Main Issues

4. These are the effect of the development on:

- The living conditions of the occupants of neighbouring properties having regard to noise and disturbance; and
- Highway safety.

The Appeal Site

5. New Broadway runs parallel to the busy Uxbridge Road, from which it is accessed. For its most part in the vicinity of the appeal site, New Broadway consists of commercial premises with residential properties above. The appeal site is an exception to this.
6. Save for a canopy and container used in association with the car wash and valeting business, it is open land. There are also various other pieces of equipment on the site that are associated with the use, such as pressure washers and vacuum cleaners.
7. It has frontages onto New Broadway and Parkfield Avenue, the latter of which provides access to the site. It is bounded by a property on New Broadway and land that appears to be used for vehicle sales. Although it was unclear whether the land was being put to this use when I visited, the appellant's grounds of appeal states that the land would be retained for this purpose.
8. In addition to the residential properties on the upper floors of buildings on New Broadway, houses in Parkfield Avenue lie close to the site across a narrow lane to the north of the site.

Living conditions

9. The appellant acknowledges that the use of the land generates noise. Although traffic on Uxbridge Road provides an acoustic backdrop to the area, I was able to clearly hear the cleaning equipment being used on the site from points along Parkfield Avenue, including from outside No. 2. The noise from the use of the site would be apparent from within them and would disturb occupants especially at times when they expect to enjoy the comfort of their own environment.
10. I saw the commercial premises accessed down the lane between the site and No. 2, marked as 'depot' on the plan attached to the notice. While it is unclear as to what use this depot is put to, it was not generating significant level of sound audible from Parkfield Avenue. In terms of noise generation, the use of the appeal site appeared anomalous in the area. I did not see any other overtly noise-generating activities being undertaken.
11. The Council does not identify which neighbour is adversely affected by noise generated from the car wash activity. Nonetheless, it is commonplace in appeals where noise is an issue to provide support with quantitative evidence that can include background noise levels and how this changes as a result of the use of a site. No such evidence has been submitted here. Although the vacuum cleaners are housed in a metal container, I have not been provided with persuasive evidence of its effectiveness in terms of noise attenuation.

Furthermore, the pressure washers are used in the open, with no mitigation that I am aware of.

12. The previous use of the land would have required cars to be cleaned and valeted. However, this would have been an ancillary aspect of that use and, in the absence of detailed evidence to the contrary, my finding is that it is unlikely that each car would have been jet washed or vacuumed on a daily basis. By contrast, this is the sole reason for the current business for which 4 people are employed full-time to clean an average of 30-40 vehicles per day. The use of the cleaning equipment would be likely to be much more intensive with a consequent effect on the amount and duration of noise generated from the site, notwithstanding that not all cars are valeted.
13. I understand that if the Council had accepted a planning application, the appellant might have been able to address the issues. However, the Council was under no obligation to do so. I have not been provided with adequate and persuasive information to show that noise and disturbance generated from the use of the land does not adversely affect the living conditions of occupants of neighbouring properties, nor that this could be adequately mitigated. As such, it would be wrong to allow the appeal subject to conditions that might prove ineffective.
14. DMP Policies DMEI 14 and DMHB 11 relate to air quality and the design of new development, respectively. As neither of these issues are referred to in the notice and no evidence of harm in these regards has been put forward by the Council these policies are irrelevant to this main issue. Similarly, I find the Council's Supplementary Planning Document to be irrelevant, as this relates to 'Residential Layouts' which, again, is a matter that is not referred to in the notice.
15. Notwithstanding this, my conclusion on this main issue is that the development is contrary to those terms of the National Planning Policy Framework that seek to promote residents' health and well-being.

Highway Safety and the Free Flow of Traffic

16. Access to the site from Parkfield Avenue, which is shared with the lane to the north of the site, is on a bend in the road and crosses the footway. It is difficult to see vehicles leaving the site when turning in from the New Broadway direction, as the turn into the site is greater than 90 degrees and they are partially obscured by the palisade fence.
17. I saw a vehicle entering the site from this direction meet a vehicle exiting the site, which resulted in the former vehicle stopping on the footway and reversing back onto the road. Drivers of vehicles undertaking this manoeuvre have to be aware of the possibility of vehicles using the lane to the depot that also serves the parking area to the front of No 2, pedestrians on the footway and vehicles on Parkfield Avenue. As the visibility available for this manoeuvre is affected by the metal palisade fencing around the site, it is hazardous and adversely affects highway safety.
18. The use of the adjoining land for vehicle sales generates further traffic movements through this access. However, I have not been provided with any substantive information regarding the number and frequency of these movements. The effects on highway safety of those traffic movements, the 60-

80 traffic movements associated with customers of the cleaning and valeting business, to which a smaller number of staff-related traffic movements has to be added, has not been addressed in the appellant's submission.

19. Some form of traffic management might address this problem arising in future. In my assessment of this matter, I note that paragraph 8.10 of the supporting text to DMP Policy DMT 1 states that managing traffic is a priority for the Borough. However, in order for me to be able to control this by way of a condition, as suggested by the appellant, I would require additional information, in respect of vehicle routeing and parking, both on the site and the land used for vehicle sales. In the absence of this information, I cannot be sure that the access to the site is safe to serve the use of the land. Allowing the development subject to conditions without being sure that these would overcome the problems I have identified would be unreasonable to the Council and other road users.
20. No layout plan has been submitted showing how the site could accommodate staff parking and spaces for vehicles waiting their turn for cleaning for attention. Therefore, I am not convinced that there is sufficient space to accommodate appropriate parking on-site, without vehicles having to park or wait on the highway. This affects the free-flow of traffic on Parkfield Avenue, close to its junction with New Broadway, to the detriment of highway safety. For similar reasoning to that given with regards to traffic management, above, it would be unreasonable for me to address this issue through the use of a condition.
21. In the absence of persuasive evidence to the contrary, my finding on this issue is that the use leads to the increased use of the access, where visibility is limited, resulting in dangerous reversing manoeuvres. Furthermore, the use of the land leads to an increase in on-highway parking to the detriment of the free-flow of traffic. Both result in an adverse effect on highway safety.
22. Thus, my conclusion on this main issue is that the proposal is contrary to DMP Policy DMT 1 that, amongst other things, requires development proposals to demonstrate they can meet the transport needs of the development and address the transport impacts in a sustainable manner.

Other matters

23. I agree that this is a mixed-use area where the principle of the development is acceptable. I also agree that the current use does not lead to a loss of employment land. Although I have not been given any details of this, I note that a drainage system has been installed and that the Council does not raise drainage as an issue in its reasons for issuing the notice. I have also taken into account the letter of support from a local business. However, none of these matters outweigh the harm that I have identified. Whilst there are undoubted economic and social benefits from the use of the land, particularly arising from the employment of four people, they are outweighed by the environmental harm that I have identified, above.

Conclusion on the Ground (a) appeal

24. For the above reasons, and having taken all other matters into account, the appeal under Ground (a) is dismissed.

The appeal on Ground (g)

25. The period for compliance with the requirements of the notice is one month from the date that it comes into effect. The appellant considers this to be too short and requests that this is extended to 3 months. No further reasoning to support the request has been put forward.
26. The canopy on the site was not particularly large, and it appeared that it would not be unduly problematic to remove either it or the other fixtures, fittings and machinery associated with the use. In the absence of any persuasive evidence to lead me to a different conclusion, I find that the period of compliance is reasonable given the nature of the steps required by the notice. Therefore, the appeals on ground (g) fails.

Roy Curnow

INSPECTOR