



Appeal Decision

Site visit made on 6 July 2020

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July 2020

Appeal Ref: APP/J0540/C/20/3246444

142 Cobden Avenue, Peterborough, Cambridgeshire, PE1 2NU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter “the Act”).
 - The appeal is made by Mr Saeed Goran Mohammed against an enforcement notice issued by the Peterborough City Council.
 - The enforcement notice was issued on 6 January 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, making a material change of use in the use of the land from a place of worship (Class D1) to a mixed use of motor vehicle repairs and servicing (Class B2) and motor vehicle storage (Class B8), the erection of gates and railings and construction of a driveway and hard surface vehicle parking/storage area.
 - The requirements of the notice are:
 - (i) Cease use of the land for the storage or repair or servicing of motor vehicles.
 - (ii) Permanently remove all motor vehicles associated with the use described in paragraph 5(i) from the land.
 - (iii) Permanently remove all equipment and tools used for the repair or servicing of motor vehicles, and all motor vehicle parts, from the land.
 - (iv) Demolish the gates and railings shown in the attached photograph marked “Photograph A” and permanently remove their constituent elements from the land.
 - (v) Erect a 2 metre high close boarded timber fence along the boundary of 140 Cobden Avenue and 142 Cobden Avenue in the location marked A to B and coloured blue on the attached plan labelled “A to B Fencing Line”.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act.
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Decision

1. It is directed that the notice be varied by in Section 6 by deleting the words “3 months” and substituting instead “5 months”.
2. Subject to the variation 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 Act.

Application for Costs

3. An application for costs was made by the Council against the appellant. This is subject of a separate Decision.

Main Issue

4. An appeal on ground (a) is that planning permission ought to be granted, either wholly or in part, for the breach of planning control alleged at Section 3 of the enforcement notice.

5. The main issues in the appeal are:

- (i) the effect of the development on the character and appearance of the area and upon the living conditions of neighbouring properties with particular regard to noise and disturbance, and
- (ii) the effect on highway safety.

Reasons

Character and appearance of the area and living conditions

- 6. The prevailing character and appearance of the area is residential and the appeal site borders a number of adjacent residential properties. The main building and larger part of the site sits back from the access which runs between Nos. 140 and 144 Cobden Avenue.
- 7. Although the lawful use of the appeal site is for religious worship, such uses are appropriate and commonly found in residential areas. The use of the site for servicing, repair and storage of motor vehicles is significantly different from the lawful use in terms of the nature of its operational effects and its overall character. While cars may have visited and parked on site in connection with the previous lawful use, I consider the current pattern of vehicle movements to and from the site, together with servicing and repair activity and a continuous presence of cars being stored on site, substantially and inappropriately changes the visual appearance and character of the site and the surrounding area. The fencing, gates and railings that have been added in order to facilitate the use also emphasise the commercial nature of the use.
- 8. Occupiers of nearby properties and gardens adjoin the appeal site. The appellant suggests that planning conditions could be imposed to restrict the servicing and repairs of vehicles to within the building and within normal working hours. While such conditions could potentially be imposed I consider they are unlikely to prevent excessive noise and disturbance resulting from the running of vehicle engines, operation of repair/servicing equipment, manoeuvring of vehicles within the site, and general comings and goings of vehicles. Given the layout and proximity of the site and the building to nearby houses and gardens I consider that some noise and disturbance is inevitable and likely to harm the living conditions of occupiers. As such, it also further harms the character of the area.
- 9. Taking account of all of these factors I find that the use results in significant harm to the prevailing character and appearance of the area and to the living conditions of occupiers of nearby residential properties resulting from noise and disturbance, in conflict with the requirements of Policies LP16 and LP17 of the Peterborough Local Plan (2019).

Highway safety

- 10. Assuming the business meets the appellant's aspiration to operate successfully, it is likely that there would be a steady throughput of vehicles being kept and serviced/repaired at the site. In this regard the appellant has not submitted any evidence to demonstrate that there is adequate space within the site to provide adequate capacity for safe parking and manoeuvring of vehicles, or that required vehicular and pedestrian visibility splays can be achieved at the highway access. In the absence of such evidence I find that the development is

likely to result in an unacceptable increase in risk to highway safety in conflict with Policy LP13 Peterborough Local Plan (2019).

Other Matters

11. In order to eliminate the previously referred to harmful effects of the development the enforcement notice should be complied with as soon as possible. In this regard no appeal has been made on ground (g) that the period for compliance with the notice requirements falls short of what should reasonably be allowed.
12. However, the notice was issued and the appeal lodged before the economic and social effects of the Coronavirus pandemic had materialised. Given that poor economic conditions are likely to continue for some time, the ability to secure alternative premises is inherently likely to be more difficult. For these reasons I have varied the period for compliance with the notice from 3 months to 5 months which is more reasonable in these circumstances.

Conclusion

13. For all the above reasons the appeal on ground (a) fails.

Thomas Shields

INSPECTOR