



Appeal Decision

Site visit made on 21 July 2020

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2020

Appeal Ref: APP/T2215/W/19/3240660

Garage Rear of 105 Burnham Road, Dartford DA1 5AZ

- 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 Mr Baljit Gill against the decision of Dartford Borough Council.
 - The application Ref DA/17/01512/COU, dated 25 August 2017, was refused by notice dated 25 September 2019.
 - The development proposed is continued use as a vehicle repair workshop following lapse of planning permission DA/13/01030/COU allowed under appeal reference APP/T2215/A/14/2214664.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Appeal decision¹ was allowed on 19 June 2014 at the appeal site. It granted temporary planning permission (for 18 months) for the change of use of a double garage to a workshop.
3. This current appeal is retrospective and seeks permission to continue to use the premise as a vehicle repair workshop.

Main Issues

4. The effect of the appeal development on:
 - The living conditions of the occupiers of the residential properties along Chatsworth Road and Burnham Road with reference to noise and disturbance; and
 - The safe and convenience of users of the adjacent highway network.

Reasons

Living conditions

5. The appeal site comprises of a single storey building with roller shutter openings, which is being used as a vehicle repair workshop. It is located to the rear of 105 Burnham Road (No 105) and is accessible from Chatsworth Road. It shares access with two garages behind 101 and 103 Burnham Road.

¹ Appeal Decision APP/T2215/A/14/2214664

Burnham Road is a distributor road and includes residential and commercial uses close to the appeal site.

6. Chatsworth Road is predominantly residential, with a primary school located the opposite end. The closest residential property to the workshop is the adjacent house and garden of 2 Chatsworth Road, which borders the appeal site. Opposite the appeal site are nearby residential properties along Chatsworth Road. The rear garden/yards of 103, 105 and 107 Burnham Road also border the appeal site, with nearby buildings at 101, 103, and 105 Burnham Road having residential use on the upper floors and 107 Burnham Road in use as house.
7. The previous temporary planning permission for the workshop has now lapsed. That permission was subject to a number of planning conditions which required amongst other things, details of an acoustic assessment and exhaust extraction equipment. From the evidence available to me it would appear that these conditions were not discharged.
8. The nature of a vehicle repair workshop would likely result in noisy activities taking place such as the use of drills and lug nut removers, as well as vehicle engines revving. The appellant has said pneumatic tools would not be used. The workshop can accommodate two vehicles, however the appellant states there is one employee.
9. The British Standard used in the Acoustic Assessment Report (AAR) dated April 2017 is not the most up to date. The accuracy of the report is therefore questioned by the Council's Senior Environmental Health Officer, which I concur with. This includes insufficient data in relation to the impact of noise from the activities. In the absence of an up-to-date adequate noise assessment, I cannot be satisfied, the workshop would not cause harm to the living conditions of the neighbouring properties.
10. In the AAR recommendations for mitigation measures, it specifically states that the garage roller doors should always remain closed when work is underway within the garage. I note that this formed part of the suite of planning conditions on the previous appeal decision¹. However, the Council has witnessed and received complaints from neighbours' that this has not always occurred. During my site visit, I saw vehicle repair works being undertaken with a shutter door left open. Consequently, although the closure of the roller shutters whilst vehicle works is being undertaken could be controlled through a planning condition, however, I appreciate that this may not always be practical having regard to actual working practices. This casts further doubt on the adequacy of the AAR.
11. There is a lack of information about vehicle extraction exhaust equipment, which was a planning condition on the previous appeal decision. Without appropriate equipment being installed there is likely to be a greater need for the shutter doors to remain open when work is being carried out on vehicles. The principle of development for a permanent use of this nature needs to be supported by a comprehensive AAR along with mitigation strategy regarding noise and emissions. I am not satisfied that these matters can be addressed

through planning conditions for details to be submitted for approval at a later date in this case.

12. The previous appeal was explicitly permitted for a temporary period to establish whether or not harm would arise from a particular use which was reasonable and pragmatic. It therefore enabled the appellant the opportunity to demonstrate the acceptability of the use during the temporary period of consent. It would not therefore be reasonable to allow this appeal in the absence of robust evidence. Furthermore, the evidence relating to complaints received by the Council indicates that previous mitigation measures have not proved effective in protecting the living conditions of neighbouring occupiers. The appellant has failed to positively respond in the current appeal by submitting sufficient detail to demonstrate that a permanent use would be acceptable.
13. Accordingly, there is a lack of substantive evidence to demonstrate that the vehicle repair workshop does not harm the living conditions of the occupiers of the residential properties along Chatsworth Road and Burnham Road, with reference to noise and disturbance. It fails to accord with Policy DP5 of the Dartford Development Policies Plan (2017) (DDPP), which seeks amongst other things, that development will only be permitted where it does not result in unacceptable material impacts, individually or cumulatively, on neighbouring uses, the Borough's environment or public health.

Highway network

14. When I visited the site at around 13:00, there was a reasonably high demand for on-street car parking spaces along Chatsworth Road, particularly near to the junction with Burnham Road.
15. The workshop use fails to achieve 1 car parking space per 2 staff plus 4 spaces per service bay, as recommended in the Council's Parking Standards Supplementary Planning Document (2012) (SPD). According to the appellant there will be one employee working and consequently only one vehicle would be repaired at any one time. The garage can accommodate two vehicles. Although another vehicle could potentially park in front of the garage, however when I visited a tyre was placed in this area. A service bay can have a high vehicle turnover and vehicles could potentially be delivered and collected at the start and end of the day. The shortfall in the provision of on-site car parking spaces adds car parking pressures to nearby roads, particularly Chatsworth Road. I consider the nature of the workshop use would likely generate more vehicle movements than its original use as a double garage.
16. Furthermore, interested parties have raised concerns with vehicles being repaired on the street and vehicles being parking across residents' driveways, which suggests there is insufficient on-site car parking spaces for the workshop.
17. There is a lack of information regarding the servicing of delivery/collection vehicles to the site. An interested party raised concerns with recovery trucks dropping vehicles at all hours. It would be difficult for the Council to enforce this through a delivery and collection times condition, if vehicles are being dropped off at all hours.

18. Consequently, the appeal development would cause material harm to the safe and convenience of users of the adjacent highway network. Therefore it would not comply with Policy CS15 of the Dartford Core Strategy (2011) and Policies DP3, DP4 and DP5 of the DDPP, which seeks amongst other things, that development will not be permitted where the localised residual impacts from the development on its own, or in combination with other planned developments in the area, result in severe impacts on one or more of the following: a) road traffic congestion and air quality; b) safety of pedestrians, cyclists and other road-users; c) excessive pressure for on-street parking.
19. The proposal would also fail to meet the SPG car parking standards for the vehicle repair use.

Other Matters

20. I acknowledge that Dartford Tyres is another vehicle repair garage located close to the appeal site. According to the Council, this has been in operation since 1981. This garage fronts onto Burnham Road, which is a considerably busier road with a greater level of background noise compared with Chatsworth Road. Consequently, the position of Dartford Tyres is not directly comparable to the appeal site. In any event I am required to determine the appeal before me based upon the evidence submitted which is what I have done.
21. The appellant has referenced two planning permissions². However, limited information has been provided about these permissions and it is very unclear as to their relevance to the appeal development. Consequently, this limits any weight to which I can attribute to these in my determination of this appeal.
22. The appellant has referred to the garage being underutilised in the past and that the National Planning Policy Framework (the Framework) seeks to promote the effective use of land. Whilst this may be the case, as explained in Paragraph 117 of the Framework, this needs to be while safeguarding and improving the environment and ensuring safe and healthy living conditions, which has not been demonstrated in this case.

Conclusion

23. Having taken all matters into account, I conclude that the appeal should be dismissed.

L Gilbert

INSPECTOR

² 07/00624/COU and 05/01095/COU