



Appeal Decision

Site Visit made on 1 June 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/E2001/W/21/3268356

60 Newclose Lane, Goole DN14 6LR

- 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 Alan Jones against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/02783/PLF, dated 24 August 2020, was refused by notice dated 8 January 2021.
 - The development proposed is change of use of existing workshop and associated storage for spray painting business.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of brevity I have used the description of development from the Council's decision notice and the appeal form.
3. Indications are that the proposed use has already commenced. However, for the avoidance of any doubt, I have determined this appeal on the basis of the development applied for. The operating hours stated on the application form are 08.00 to 18.00 Monday to Friday, and 08.00 to 16.00 on Saturday.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of nearby residents, with particular regard to noise and fumes.

Reasons

5. The appeal site is a residential property with a workshop and garage located at the end of the long rear garden. According to the appellant, the workshop building has previously been in commercial use and contains a commercial electricity supply. However, I am not aware of any planning history that has established a commercial use at the site. In any case, the development applied for is the change of use from domestic to commercial.
6. During my site visit I was able to observe the close relationship of the workshop building to residential properties on Mount Pleasant Road. These neighbouring properties have short rear gardens backing onto the appeal site. It is significant that the garage-type door to the workshop spraying area faces towards these neighbouring properties. Despite the presence of the boundary hedge, there is potential for noise and fume effects arising from the proposed use of the workshop, which would be experienced from the gardens and rear windows of the closest properties. Indeed, the Council's Environmental Health

Section advises that neighbours have previously complained about noise and paint fumes.

7. The appellant contends that a number of mitigation measures are already in place. This includes a new compressor mounted on vibration absorbing pads, installation of extraction fans with filters, and ensuring that the garage door remains closed during spraying. However, despite provision of some technical specifications of the equipment, no noise assessment data has been submitted. In addition, I have insufficient details relating to the ventilation system upon which to assess its suitability. Nor is it clear whether the building is sealed to prevent noise and fume escape from gaps between doors and between the walls and roof. Consequently, I have no way of knowing if the mitigation measures employed would be fit for purpose in connection with the proposed use, both in terms of ensuring sufficient ventilation of the workshop and ensuring that any noisy activities within the workshop remain adequately contained.
8. I note that the appellant would be agreeable to providing further information, including a noise assessment, but as I have no substantive evidence to ascertain that suitable mitigation could be achieved, it would not be appropriate to leave such matters to conditions.
9. My attention has been drawn to two nearby businesses, which the appellant suggests were permitted by the Council. However, the Council advises that the car repair business at 32 Newclose Lane had a certificate of lawfulness granted as it had become lawful through the passage of time rather than on account of its planning merits. No specific information has been provided in relation to the planning history of Airmyn Garage, but on the limited information before me, it does not appear to be directly comparable to the appeal scheme. In any event, the presence of other apparently similar development is not a reason, on its own, to allow otherwise unacceptable development. I am required to consider the appeal on its own merits, and have done so.
10. The proposal would generate some additional vehicle movements, but this would be at a small scale and would not lead to significant disturbance to neighbours. In addition, there is no suggestion that the use of the garage for storage would, in itself, be harmful. This notwithstanding, on the evidence before me, I cannot rule out the possibility that occupiers of nearby neighbouring properties could be exposed to harmful effects from noise and fumes arising from the proposed use of the workshop. In these circumstances I consider that a precautionary approach is necessary.
11. I therefore conclude that the proposal would have harmful implications for the living conditions of nearby residents, with particular regard to noise and fumes. This is contrary to Policy ENV1 of the East Riding Local Plan (2016), which among other things, requires development proposals to have regard to the amenity of existing properties. The proposal is also contrary to paragraph 180 of the National Planning Policy Framework, which is clear that new development should be appropriate for its location taking into account the likely effects of pollution on health and quality of life.

Conclusion

12. Whilst I recognise that the proposal would be beneficial in economic terms and may help to reduce the number of car journeys to alternative premises, these

positive factors do not outweigh the harm I have identified and the proposal's failure to comply with the development plan as a whole. Accordingly, and for the reasons given above, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR