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## Appeal Decision

Site visit made on 8 June 2021

**by David Smith BA(Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 June 2021**

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**Appeal Ref: APP/A2280/W/20/3256464**

**Garages adjacent to 3 Valley Road, Gillingham, ME7 2ET**

- 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 Miss Maryam Iqbal against the decision of Medway Council.
  - The application Ref MC/20/0835, dated 30 April 2020, was refused by notice dated 13 July 2020.
  - The development proposed is replacement of existing roof and change of use from parking garages to car mechanic.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development on the application form does not refer to raising the height of the existing garages or to the infilling of the area between them. However, these works are shown on the application drawings which form part of the proposal. The Council indicates that the buildings would increase from about 2.6m high to 3m and the appellant confirms that the development would not exceed 3m in height. Therefore the appeal should be determined on the basis of the plans accompanying the application which include these elements of built development.
3. Compared to the existing site plan and elevations some building works have been undertaken in the form of a blockwork wall along the boundary with 92 Toronto Road and an arch linking the garages. However, this appeal is concerned with the proposed development shown on the submitted drawings.

### Main Issue

4. The effect of the proposal on the living conditions of surrounding residents with particular reference to noise and the outlook of 92 Toronto Road.

### Reasons

5. The appeal site comprises unused garages in the midst of an extensive residential area. At the time of my mid-morning visit this was noticeably quiet. The National Planning Policy Framework establishes that new development should be appropriate for its location taking into account the likely effects of pollution on health and living conditions. To this end potential adverse impacts resulting from noise should be mitigated and reduced to a minimum. The Framework also seeks a high standard of amenity for existing users.
6. Given the close proximity to neighbouring housing the introduction of a car mechanic's operation clearly has the potential to be more disruptive than the

former use of the site for parking vehicles. However, the appellant proposes several measures to lessen any impacts including limiting opening hours to between 1000 and 1600 hours Monday to Friday, installing sound proofing, keeping the doors shut during operational hours and not using heavy machinery. No repairs would be undertaken outside the building on the small front forecourt. Such matters could be covered by conditions.

7. The intention is that the business would concentrate on the repair of electric and hybrid cars. As such, air pollution would be unlikely to worsen. Only hand tools would be used with no bodyworks undertaken. Information provided to the Council indicates that the unit would only have a single service bay and that no parking would occur along Valley Road as cars could be kept inside. Also that no more than two vehicles per week would be worked on. Whilst the use of a single service bay could be controlled by condition it would not be reasonable to fetter the use to a particular type of vehicle or to limit the number of cars that could be repaired or serviced. The Framework emphasises that businesses should be able to invest, expand and adapt. Furthermore, any permission would run with the land rather than the type and volume of work that the appellant currently has in mind.
8. Even if controlled by conditions as suggested there would still be scope for the noise associated with repairing vehicles to cause disturbance. Whilst this would be limited to daytime during the week it is by no means certain that everyone living close to the site would be out at work. This is especially given the recent general increase in home working. Furthermore, the site is immediately adjacent to the garden of No 92 as well as being very near to other housing.
9. In such circumstances and bearing in mind national policy provisions that seek to minimise noise, it is right to take a cautious approach about the possible consequences. Whilst it would be possible to require that insulation is undertaken to the specification suggested by the appellant there has been no assessment of how effective this would be. The Council has suggested a condition to the effect that the noise rating level should be at least 10dB below the background noise level but there is no certainty that this could be achieved.
10. The appellant maintains that any acoustic report would be inaccurate as it would be based on predictions. Such assessments nevertheless provide an objective technical basis for judging the effects of developments like this one. A full acoustic assessment was not requested by the Council prior to determining the application and the absence of one is not, in itself, a reason to dismiss the appeal. However, the nature of the proposed use and the possible adverse impacts on existing residents are potentially so serious that it would be a mistake to permit the proposal without a clearer idea of its effects.
11. In addition, if the use only operated with the doors closed in order to contain any noise then the Council highlights the likely need for a system of ventilation to ensure satisfactory internal working conditions. No consideration appears to have been given to the practicalities of this in terms of its siting and design as well as whether this could also be a potential noise source.
12. The appellant highlights a retail store and public house nearby which operate until late hours but neither of these uses nor the constant running of fans at the shop provides justification for the proposal.

13. There would be a 3m high wall along the entirety of the angled side and rear boundary of No 92. This would be between around 6m and 15m from the rear facing windows. There is already a wall along most of that boundary. Whilst the proposal would increase the amount of enclosure it would be single storey in height and would not be an overly dominant feature. The proposed development would be visible from within No 92 but it would not be so close or tall that the outlook would be unacceptable. However, this would be dependent on securing a satisfactory external appearance to the wall which could be achieved by condition.
14. Therefore in terms of the effect on outlook the proposal would not harm the living conditions of the occupiers of 92 Toronto Road. However, because of the potential noise arising from the proposed use which cannot reasonably be mitigated by conditions, it would cause harm to the living conditions of surrounding residents. Consequently there would be a conflict with Policy BNE2 of the Medway Local Plan which seeks to protect amenity.

### **Other Matters**

15. The proposal has attracted both support and opposition from those living in the vicinity and from further afield. I saw high levels of on-street parking in Valley Road and there is concern that overspill parking could block the right of way that runs along the eastern side of the site. If the use were to remain small in scale then storing vehicles awaiting repair is less likely to be problematic. Requiring an appointment only system would assist but some customers would be likely to wish to leave their cars with the mechanic. Greater clarity about where vehicles would be kept and how numbers would be controlled should alleviate any negative consequences in an already congested road.
16. Bringing these derelict buildings back into use would be beneficial in terms of their appearance, demonstrating investment and creating employment. Significant weight should be given to the need to support economic growth according to the Framework but the wider effects of the proposed use would be small. National policy also does not indicate that economic considerations should prevail at the expense of achieving a high standard of amenity or minimising noise. Therefore the advantages that would occur do not outweigh the harm identified.
17. The appellant claims that the Council has mismanaged the handling of the application in various ways including not placing the matter before the Committee. However, these internal matters have no bearing on the outcome of the appeal.

### **Conclusion**

18. The proposed development would be potentially harmful to the living conditions of surrounding residents and would not accord with the development plan. There are no other considerations that outweigh these findings. Therefore, for the reasons given, the appeal should not succeed.

*David Smith*

INSPECTOR