The Planning Inspectorate

Appeal Decision

Site visit made on 11 January 2022

by M Madge DIPTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2022

Appeal Ref: APP/Z4718/C/21/3282391
Land at 229 Healey Lane, Healey, WF17 8BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Shahbaz Ahmed against an enforcement notice issued by Kirklees Metropolitan Council.
- The notice was issued on 30 July 2021.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use to a car/vehicle sales.
- The requirements of the notice are:
  a) Cease the use of the site for car/vehicle sales
  b) Remove from the site all cars/vehicles
  c) Remove from the site all advertisements and signage associated with car/vehicle sales use.
- The period for compliance with the requirements is 30 days.
- 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a)

2. An appeal on this ground is that planning permission ought to be granted for the material change of use to car/vehicle sales. The **main issues** are the effect on the living conditions of neighbouring residents and highway safety.

3. The site is in a densely populated, predominantly residential area. The appeal premises front on to Mortimer Street, and the building occupies most of the site.

4. The appellant contends that the car/vehicle sales use operates "*almost entirely within the building, save for a handful of customer parking spaces externally"*. The plan at Figure 2 of the appellant's statement shows 3 vehicles parked adjacent to Healey Lane, labelled customer parking. On the ground, the use of the outside space is not delineated in anyway. The internal arrangement of the building shows 15 cars/vehicles parked, a delivery and unloading area and a parts store. The internal parking arrangements are such that few vehicles could exit the building without others having to move outside first.

5. The appellant claims that only one delivery per week occurs, with 2 to 3 customers visiting per day and by appointment only. However, the business operates 7 days a week. The general levels of activity associated with the

comings and goings of customers, in conjunction with vehicle movements including employee parking, manoeuvring of vehicles to facilitate test drives, collections and deliveries cause noise and other disturbance, which harms the living conditions of nearby residents. The development therefore fails to provide a high standard of amenity for neighbouring occupiers.

6. The intensification of vehicular activity directly adjacent to the Mortimer Street and Healey Lane junction, including where there may be no dropped kerb, disrupts the free flow of traffic. Given the limited outside space available, with no designated staff or customer parking areas identified, it is more than likely that customers and staff would park on the public highway. Vehicles parking or waiting in the highway in proximity to the Mortimer Street/Healey Road junction also disrupt the free flow of traffic and obstruct visibility for other drivers. The safe and efficient flow of traffic within the development and on the adjacent highway is therefore prevented by the constrained nature of the site and the proximity to the busy road junction, to the detriment of highway safety.

7. For these reasons, the development causes significant harm to the living conditions of neighbouring residents and to highway safety. The development conflicts with policies LP21, LP24 and LP52 of the Kirklees Local Plan (February 2019), which seek, amongst other things, to protect residential amenity and promote highway safety.

8. The appeal on ground (a) fails and the notice is upheld.

Appeal on ground (g)

9. An appeal on this ground is that the compliance period falls short of what should reasonably be allowed.

10. The appellant claims that 30 days provides insufficient time to find alternative premises and 6 months is requested. Compliance with the notice would not require any complex operations, and the harms arising from the development are significant. I have not been provided with any substantive evidence to show that finding alternative premises would be difficult or that removing the cars/vehicles and signage from the site would be time consuming. For these reasons I find the 30 days period afforded by the notice does not fall short of what is reasonable to allow compliance with the requirements.

11. The appeal on ground (g) fails.

Overall Conclusion

12. For the reasons given above, I conclude that the appeal shall not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M Madge

INSPECTOR