



Appeal Decision

Site visit made on 16 March 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/B2355/W/21/3285478

Unit 2 Laburnum Street, Haslingden BB4 5DW

- 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 Dulih Miah of VW Shop/VW Parts Ltd against the decision of Rossendale Borough Council.
 - The application Ref 2021/0083, dated 8 February 2021, was refused by notice dated 22 October 2021.
 - The development proposed is described on the application form as 'change of use from use class E(a) (retail and storage) to E(a) plus the repair and cleaning of cars within the building'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr D Miah against Rossendale Borough Council. That is the subject of a separate Decision.

Preliminary Matters

3. Since the appeal was lodged, the emerging Rossendale Local Plan 2019-2036 (the RLP) has been adopted. As such I have referred to relevant policies in the RLP in my reasoning.

Main Issues

4. The main issues are the effect of the proposed change of use on;
 - the living conditions of the occupiers of neighbouring residential properties; and,
 - highway safety.

Reasons

Living Conditions

5. The appeal site relates to part of a 2 storey warehouse style building, Unit 2, fronting the pavement beside Laburnum Street, a reasonably narrow road. The immediate area comprises a predominantly residential area made up of primarily terraced housing located off Blackburn Road (A680), a busy local thoroughfare. On the site visit my impression was that background noise was primarily limited to that arising from traffic on Blackburn Road and which was nonetheless within the expected levels for a residential area.

6. Unit 2 is attached to a row of terraced dwellings, whilst residential properties are also located opposite. The building is currently in use as a car parts shop. Unit 1, adjacent, consists of a tyre sales and fitting business. The fitting element was granted planning permission at appeal in 2013¹. This included a condition limiting tyre fitting to within the existing building and rear yard, in the interests of living conditions of occupiers of neighbouring residential properties.
7. Permission is sought to use the building for the cleaning and repair of cars, estimated to be up to three cars per week. Cars would enter the building through the opening on the front elevation that lies adjacent to 3 Laburnum Road. The appellant argues that the limited access into the building and also the available space within it, are constraints on the building's use and that its main retail use would continue.
8. Vehicle repair has potential to generate significantly more noise and disturbance to the occupiers of neighbouring properties than a retail use. The sound of running engines, vehicles being driven within the building and cars being worked on could all generate noise and vibrations that could be experienced by occupiers of neighbouring properties. The noise and vibration arising from the proposed use would, to my mind, result in significant levels of disturbance to the occupiers of No 3 which lies immediately adjacent to the access and the internal area where vehicles are likely to be worked on. I saw a vehicle within the building adjacent to the boundary wall with this property on the site visit. Other residential properties nearby are also likely to experience noise and disturbance arising from the proposed use, albeit to a lesser degree than No 3. Such disturbance would likely exceed that which could be expected from the existing retail use.
9. The Council's Environmental Health section has recognised the close proximity of residential properties and has recommended a number of conditions to seek to mitigate the likely effects on living conditions. In this regard, a limitation to three cars being repaired per week, could still realistically mean that cars are repaired throughout the week, generating noise during this time. Whilst a restriction requiring works to be carried out solely within the building would perhaps address some of the existing issues highlighted by neighbour objections, there is no information before me in terms of the extent of noise insulation that would be achieved by the building or the level of noise insulation between it and No 3.
10. Furthermore, preventing the use of power tools for commercial vehicle repair is unrealistic and to my mind would place unreasonable burden on the business as is evidenced by the appellant's request for that to be omitted. Similarly, it would be unreasonable to consistently require doors and windows to be closed when vehicles are being repaired, severely restricting ventilation within a relatively small space and when engines are likely to be running.
11. For the above reasons, notwithstanding their enforceability, I am not convinced that the conditions suggested by Environmental Health would make the proposal acceptable with regard to living conditions and would place unnecessary and unrealistic burdens on the business. This reinforces my concern that this is not a suitable location for the proposed use.

¹ APP/B23555/A/13/2190193

12. I accept that a tyre fitting business operates from Unit 1, however this does not have as close a relationship with residential properties, being set further away and notably it does not adjoin any dwellings.
13. I therefore conclude that the proposed use would result in harm to the living conditions of the occupiers of neighbouring properties. The proposal would therefore conflict with Policy EMP4 of the RLP which supports new employment uses subject to a number of criteria, including there being no significant detrimental impact on the amenity of neighbouring land uses and the character of the area by virtue of increased levels of noise, odour, emissions, or dust and light impacts, surface water, drainage or sewerage related pollution problems.

Highway Safety

14. Laburnum Street is a narrow road with no obvious parking restrictions. I saw that cars tended to be parked on both sides of the road and often extended partly onto the pavement. This limits space for vehicles travelling along the road. Those parked on the pavement also limit the space for pedestrians. Customers visiting the existing retail use are likely to park on the road outside of the premises adding to the number of vehicles parked here.
15. Given that the proposal seeks to use the building to repair and wash up to three vehicles per week, this is unlikely to significantly increase the demand for parking beyond that already generated by the existing retail use. This is supported by no objections having been received from the Highway Authority.
16. Concerns have been raised by local residents with regard to recovery trucks dropping off vehicles and works being carried out to them on the highway. This is a separate matter for the Council that does not form part of the proposal before me. Whilst I sympathise with the local residents with regard to the existing parking situation, for the above reasons I am of the view that the proposal would not significantly worsen it.
17. I therefore conclude that the proposal would not result in an unacceptable effect on highway safety. The proposal would therefore comply with Policy EMP4 of the RLP in this regard which, amongst other things and in summary, seeks to ensure proposals have an adequate access that does not create a traffic hazard and that traffic generated does not have a severe adverse impact on local amenity, highway safety or the operation of the highways network.

Conclusion

18. For the reasons given above, having considered the development plan as a whole, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR