
Appeal Decision

Site visit made on 3 March 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 19th May 2022

Appeal Ref: APP/N4720/W/21/3285567

Hand Car Wash, 200 The Ring Road, Junction of Millshaw and Ring Road, Beeston, Leeds LS11 8EG

- 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 Qadeer Ahmed against the decision of Leeds City Council.
 - The application Ref 21/04040/FU, dated 6 May 2021, was refused by notice dated 14 September 2021.
 - The development is described as 'vacant site to be changed of use to a hand car wash'.
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Decision

1. The appeal is allowed and planning permission is granted for vacant site to be changed of use to a hand car wash at Hand Car Wash, 200 The Ring Road, Junction of Millshaw and Ring Road, Beeston, Leeds LS11 8EG in accordance with the terms of the application Ref 21/04040/FU, dated 6 May 2021, subject to the conditions set out in the schedule to this decision letter.

Preliminary Matters

2. On the application form, the appellant stated that the car wash use commenced at the appeal site on 1 March 2012. On that basis, he contends that the use is now lawful through the passage of time.
3. In the case of development comprising a material change of use, S171B(3) provides that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. However, the appellant has not submitted a lawful development certificate (LDC) application to establish the lawfulness of the development, and it is not open to me to consider the current appeal as if it were an LDC appeal.
4. Although the change of use has already taken place, the proposed plan on which the Council made their decision varies in some respects from the existing arrangements at the site. I have therefore based my consideration on the proposed plan, whilst taking my observations on site into account.

Main Issue

5. The main issue is the effect of the development on highway safety in the area.

Reasons

6. The appeal site is located on the A6110 Ring Road close to the junction with Millshaw on land that was formerly a dentists' surgery. The Council confirm that the change of use to a car wash facility is acceptable in principle in this

location. According to the planning history of the site, two previous applications were submitted for the change of use to the car wash use. These were both withdrawn following objections on highways grounds.

7. Policy T2 of the Leeds Local Plan Core Strategy (CS) requires new development to provide safe and secure access. The Council's objection arises from the intensification of the use of the site, and its proximity to the Millshaw junction, which is traffic light controlled and has an exit lane feeding onto Millshaw. The Council are concerned that, during busy periods, vehicles may need to queue on the ring road to gain access to the appeal site, thus creating an unacceptable hazard.
8. In terms of intensification, there is no direct evidence of the previous numbers of trips to and from the site when it was a dental surgery. As part of their assessment, the Council have quantified the likely traffic generation using the TRICS database. Although limited sites were available in TRICS for hand car wash uses, a site in Lincoln was selected, which had a total of six bays, seven employees and 10 parking spaces. The TRICS data showed that the Lincoln site generated 41 two-way daily trips.
9. For comparison, TRICS was used to quantify the traffic generation associated with a dental practice. TRICS identified six dental practices around the UK in similar locations and confirmed that such uses generate 33 two-way daily trips. In terms of management, the traffic associated with a dental surgery can be controlled through the appointment system, whereas a hand car wash use mostly generates pass-by traffic. Also, the appellant confirms that the business has a seasonal element, with summer being the least busy as cars do not get so dirty.
10. On the basis of the above evidence, it is reasonable to assume that the car wash generates more traffic than the previous use, and that the pattern of use is more variable than before. However, as the development has now been in operation for some years, it follows that any significant adverse impact on highway safety arising from it should be tangible and demonstrable.
11. The car wash has two access points directly to and from the dual carriageway. The Council argue that it would take only one vehicle queueing outside to enter the site to block the free flow of traffic, particularly on the left southbound lane. There is certainly the potential for this to happen during busy periods at the business, but it is unclear from the evidence how frequently this occurs in practice.
12. Measuring from the southbound stream stop line, it would take approximately eight vehicles for a queue to extend back to the site and block its access points. The Council contend that this would result in drivers exiting the appeal site pushing out during a red phase, or waiting for drivers to allow them to merge onto the main road. During a green phase, they say that exiting drivers would be looking for a gap in the network to exit the site quickly to merge onto the road. Such manoeuvres would increase the risk of side shunt collisions.
13. The speed limit on the road outside the appeal site is 40mph, and so the Council argue that drivers on the main road would be travelling at that speed, whereas drivers leaving the appeal site would be at much lower speeds until they got up to 40mph. This, the Council argue, would increase the risk of rear shunt collisions.

14. It should be noted that the Council couch much of their commentary in terms of what would happen, as opposed to what actually has happened over the years that the site has been used as a car wash. Accidents in the vicinity are alluded to, including a serious accident in 2015 when one vehicle hit the central reserve, and some further minor accidents. However, there is no evidence of any accident that can be directly attributed to the operation of the business.
15. I saw on my visit that the stretch of road by the appeal site is straight and fairly level, affording good visibility for drivers as they approach the appeal site and the traffic lights. I also saw that queues build up regularly and quickly at the junction. However, the presence of the signals at the junction has the effect of slowing the traffic down, so that vehicles are only intermittently traveling at 40mph. The built up of queues serves to slow it down even further.
16. Therefore, if the customers for the car wash and the traffic waiting at the lights were all stationary, or moving slowly due to congestion, this would not lead to a materially greater hazard. Customers would be signalling to leave the dual carriageway and enter the car wash site, and other drivers would generally take this into account, regardless of the speed at which they were travelling. Given the clear visibility along the road towards the lights, most drivers would be preparing to slow down and stop for the signals in any event. It seems to me that this would be little different to the possibility of a queue forming to use the feeder lane onto Millshaw.
17. Furthermore, these same situations that the Council are concerned about would have occurred during the time that the appeal site was a dental surgery. The estimated rise in the number of two-way trips at the site from 33 to 41 a day is not an enormous increase. Moreover, it does not follow that customers entering or leaving the premises will necessarily behave more recklessly or impatiently just because the site is busier than before. The vast majority of drivers wish to avoid road traffic accidents, and I have no reason to think that the car wash customers are any different in that regard.
18. My attention has been drawn to an email dated 31 July 2014 to the appellant from an officer from the Traffic Management South team. He commented that the layout of the access points had not changed from the previous use. He observed that there was good visibility for approaching traffic, and that manoeuvres in and out of the site were not unduly restricted.
19. He did raise concern over the possibility of queues forming to enter the site, but considered that the existing signage together with appropriate site management at the time were sufficient to address this matter. There is little to indicate that circumstances have significantly changed since 2014, which adds to the weight of evidence in the appellant's favour.
20. Drawing these threads together, it has not been satisfactorily demonstrated that the development gives rise to an unacceptable hazard to highway safety, or will do so in the future. As a result, no conflict arises with CS Policy T2 or UDP Policy GP5, insofar as it requires development to maximise highway safety. The development accords with the requirement of the Council's Street Design Guide to provide safe movement for all street users, and with paragraph 110 of the National Planning Policy Framework, which requires development to achieve safe and suitable access to the site.

Conditions

21. I have had regard to the planning conditions that have been suggested by the Council. I have amended some of them for clarity and brevity, or substituted alternative text.
22. A proposed site plan was submitted with the planning application in response to the Council's concerns, but it raises a number of issues. It shows two lanes coming into and leaving the site. However, from the layout I saw on my visit, this arrangement would seem impractical, and it is unlikely that two queues would form in this way. The plan also omits detail including the location of the drains and the washing equipment.
23. Therefore, in the interest of proper planning, I have imposed a plans condition and a further condition seeking accurate details of the layout of the site. Conditions seeking approval of details relating to traffic management and surface water management are appropriate to maintain public safety at the site. In terms of timescales, I have altered the suggested one month for the submissions to two months as this would seem a more reasonable period of time for the amount of information sought.
24. I have not imposed the second suggested condition relating to the laying out and surfacing of the site because these elements would be addressed by the third and fourth conditions.

Conclusion

25. For the reasons above, I conclude that the development accords with the development plan as a whole, and so the appeal should be allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall accord with the following approved plans: Site location plan; Block plan/layout plan.
- 2) Notwithstanding the detail shown on the Block plan/layout plan, within one month of the decision date, further plans shall be submitted for approval in writing by the local planning authority, accurately showing the areas for use by vehicles, including parking and servicing areas and the location of drains.
- 3) Within two months of the decision date, a Car Parking and Servicing Management Plan shall be submitted for approval in writing by the local planning authority. The plan shall include information on traffic management, measures to prevent queuing back to the A6110 Ring Road, measures to prevent/reduce surface water running on to the A6110 Ring Road and timescales for implementation. The plan shall be fully implemented, and the development thereafter operated in accordance with the approved timescales.
- 4) Within two months of the decision date, a scheme detailing surface water drainage works shall be submitted for approval in writing by the local planning authority. The works shall be implemented in accordance with the approved scheme and within timescales agreed in writing with the local planning authority.