



Appeal Decision

Site visit made on 3 May 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st May 2022

Appeal Ref: APP/Z3635/W/21/3288718

Land Rear of 40 Hetherington Road, Shepperton TW17 0SP

- 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 Spotless Water Ltd against the decision of Spelthorne Borough Council.
 - The application Ref 21/00626/FUL, dated 18 March 2021, was refused by notice dated 14 June 2021.
 - The development proposed is an application for the siting of a water filling station.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the word retrospective from the description of development above, as it does not describe development. However, for the avoidance of doubt, I saw on site that the water filling station is in place, in accordance with the plans before me, and I have considered the appeal on the basis that the development has already taken place.

Main Issue

3. The main issue in this case is the effect of the proposal on the living conditions of the occupants of nearby properties, with particular reference to noise, disturbance and the availability of access.

Reasons

4. The water filling station (the container) is sited within a parking area and service yard at the rear of a parade of commercial units that have residential flats above. The site includes a number of domestic garages and is neighboured by the gardens of residential properties. The container is sited within a parking space, directly underneath a stairway access from the parking yard up to the residential flats above. I am not aware of any restrictions regarding the use of this parking area, either in terms of vehicles nor hours of use. Given its location behind and serving commercial units, which include, for example, a business supplying cleaning products, it is likely to be already used by some commercial vehicles for unloading/loading. However, this use is unlikely to be substantial given the limited number of businesses in this location.
5. The appellant does not dispute that, given the nature of the container, it specifically attracts vans and large vehicles used by window or car cleaners etc. It is likely that the use of the site from these vehicles is therefore materially

and noticeably increased, and with it the associated noise and disturbance from manoeuvring, parking, engine idling, doors shutting etc.

6. The appellant sets out that the nearest residential unit is over 20m from the container, however this relates to the rear or side boundaries of the nearest houses, not their gardens or the flats above, which are considerably nearer and are not set behind substantial boundary treatments or further car parking. Even if users of the facility only require 5-10 minutes, given the sensitive location of the container directly underneath the access stairway to the flats, and its proximity to the flats themselves, this increase in associated noise and disturbance is likely to be keenly felt. This is particularly the case at late evening/night or early morning. I note the letters of objection from residents in this respect.
7. The application states that there is no restriction on the hours of use for the container, and its 24 hour self-service is advertised on the container itself. The appellant does suggest a condition restricting hours of opening to between 7am and 11pm, or 8am and 10pm, however, given the proximity to residential units, I do not consider these hours to be sufficiently limited to protect amenity, for example in the evening, and overcome the harm identified. Similarly, a temporary permission, suggested for 5 years by the appellant, would not address the harm identified.
8. The use of the designated parking space for the container and the use of the adjacent space for the vehicle using the container, does not block nor restrict access any more than the regular use of these spaces for the parking of vehicles.
9. In light of the foregoing, I conclude that the development harms the living conditions of occupants of nearby properties, in respect to noise and disturbance. Accordingly, there is conflict with Policy EN1 of the Core Strategy and Policies Development Plan Document (2009), which, amongst other matters, seek to ensure that development achieve a satisfactory relationship to adjoining properties.

Other Matters

10. I acknowledge that the container serves local businesses, however it does so at the expense of the living conditions of nearby residents. It has not been demonstrated that a more suitable location would not achieve the same economic benefits. The appellant points to a lack of harm on character and appearance. This is not in dispute, and a lack of harm in this and other respects are neutral matters, not in favour of the proposal.

Conclusion

11. There are no material considerations that indicate the application should be determined other than in accordance with the development plan.
12. Although I have found that the proposed water filling station does not block or restrict access, the harm identified to the living conditions of the nearby residents, having particular regard to noise and disturbance, means that the proposal must fail. The appeal is therefore dismissed.

B Phillips, INSPECTOR