The Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 November 2022

Appeal Ref: APP/J4423/C/22/3297846
241 Barnsley Road, Sheffield S4 7AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Zulfiqar Manzoor against an enforcement notice issued by Sheffield City Council.
- The enforcement notice is dated 17 March 2022.
- The breach of planning control as alleged in the notice is [with paragraph numbers taken from the notice]: 3.1 Unauthorised change of use of the Land to motor vehicle repair, maintenance and tyre fitting garage, with associated storage, of vehicles, parts, equipment tyres, waste and a metal container. 3.2 The erection of a workshop building, and posts surmounted by tyres and any advertisements of the use described in paragraph 3.1.
- The requirements of the notice are: (i) Cease the use of the Land for the purposes set out in paragraph 3.1. (ii) Remove all vehicles, parts, equipment, tyres, waste and the metal container from the Land. (iii) Demolish the building, (marked 'building 1' on the plan attached to the notice), and the posts referred to in paragraph 3.2 of the notice. (iv) Remove all the materials resulting from the demolition of the building and the posts (including associated adverts) from the Land.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. It is directed that the enforcement notice be corrected by the deletion from the allegations of the text 'Unauthorised change of use of the land', and its replacement with the text 'Unauthorised material change of use of the land'.

2. The appeal is dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

The enforcement notice

3. With regard to the wording of the notice, it alleges the 'Unauthorised change of use of the land…'. The allegation is imprecise in that it refers to a 'change of use', whereas to reflect the definition of the term 'development' in s55(1) of the Act, it should state a 'material change of use of the land'.

4. I am satisfied that this correction does not cause any injustice, or make the notice more onerous.

Ground (a) and the deemed planning application

Main Issues

5. The main issues are the effect of the development on:

    - the living conditions of nearby residents, with particular reference to odours, noise and disturbance; and
    - the character and appearance of the surrounding area.

Reasons

Background and policy context

6. The appeal site is located on land adjacent to and formerly associated with the vacant Sportsman Inn. The surrounding area is predominantly residential in character.

7. In terms of background, temporary planning permission was granted conditionally under ref: 15/04213/FUL for 'Change of use of part of car park to car wash, including valet bays, siting of container units to be used as office and equipment store and siting of portaloo.' Following the expiry of that permission on 22 April 2019, a further temporary planning permission was granted conditionally under ref: 19/00875/FUL for 'Retention of the use of car park as a hand carwash including erection of covered shelter' for three years. This permission expired on 3 May 2022. The reason given for the time limit was that the permanent use of the site as a car wash facility could undermine and prejudice the satisfactory regeneration of the area.

8. The appeal site is in a Housing Area, as identified in the Sheffield Unitary Development Plan (UDP). UDP Policy H10 sets out the preference for housing, followed by a list of acceptable land uses, and a list of uses that will be considered unacceptable in such areas. Unacceptable uses include general industrial uses and car showrooms.

9. In terms of land use, the appellant argues that the current use of the site for vehicle maintenance and repair is in the same use class as a car wash. However, that use is no longer lawful, and was only found to be acceptable on the appeal site due to its temporary nature. Moreover, it seems to me that the current use involves elements of general industry and storage, and so amounts to a mixed use. In any event, it does not fall within the preferred or acceptable land uses for the site, and so it must be considered on its individual merits.

Living conditions

10. Although the appellant accepts that the previous car wash use has expired, much of his case hangs on the granting of that previous permission. However, it does not follow that, because one commercial use was found to be acceptable in terms of living conditions, that another commercial use will be so.

11. The site is located next to a busy highway, and ambient noise levels are likely to be relatively high as a result. However, it is important to consider the nature of the noise generated and its effect on nearby residents. For example, car repairs can typically generate noise which is variable, and often sharp and sudden in character. Sharp sounds tend to be highly intrusive, and intermittent, irregular noises are especially grating and wearing to receptors in

a residential environment. The character of the noise is therefore different to that generated by a car wash, which tends to be less variable, and more repetitive and predictable.

12. The Council also refer to nuisance arising from fumes at the appeal site, and I also note references to the burning of tyres in other submissions to the appeal.

13. The appellant argues that the site is set sufficiently far apart and screened from neighbouring residential properties for the use to operate without adverse impact by way of noise and other disturbance. He indicates that he would consider installing additional mitigation, in the form of acoustic fencing, along the boundaries.

14. Crucially, however, there is little information from the appellant that would allow a meaningful assessment of the impact of the development on the living conditions of neighbouring residents. As noise has been raised as an issue, it would be expected that a noise impact assessment would be produced and submitted for consideration. In the same vein, it would be expected that details of any processes emitting odours, including their location and frequency of use, would be submitted for assessment.

15. I accept that the site could revert to its previous use as a pub car park. The appellant contends that, should that happen, then a much greater amount of noise and disturbance, including raised voices, car doors slamming, and engines revving, would occur over a much longer period throughout the day and into the evening. However, such a use would be lawful by definition, and so would not be subject to assessment against the relevant local plan policies.

16. I have taken into account the appellant's argument that the Council had previously found that the car wash development on the site was able to be made acceptable by way of condition. It may be that the development before me could similarly be made acceptable by the use of appropriate conditions. However, in view of the lack of information on noise and odour impacts, I cannot be confident that this is the case here.

17. Drawing these threads together, I conclude that it has not convincingly been demonstrated that the development has an acceptable impact on the living conditions of nearby residents. Conflict thus arises with UDP Policy H10, insofar as it resists developments like the unauthorised use in Housing Areas, and UDP Policy H14, insofar as it resists unacceptable air pollution, noise or other nuisance. Conflict also arises with the National Planning Policy Framework, which promotes a high standard of amenity.

Character and appearance

18. On my site visit, I saw a number of signs associated with the unauthorised use. There were two signs with arrows pointing towards the entrance to the site, and one on the end of the car port facing towards the main road. I also saw one metal post of approximately 3m in height with three tyres attached. The appellant confirms that this in intended as an advertisement for the business, so I have considered it on that basis.

19. The three written signs have white backgrounds with lettering of various colours applied. They are functional in character, simply stating the details of the business and the services carried out. Taken individually, none of the signs are particularly out of character with the site. However, taken all together,

they add a level of visual clutter that is out of keeping with the streetscape and the surrounding area.

20. I therefore conclude that the development unacceptably harms the character and appearance of the surrounding area, contrary to Policy CS74 of the Sheffield Development Framework Core Strategy, which amongst other things, requires development to respect the townscape character.

Conclusion

21. For the reasons above, the appeal is dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

Elaine Gray

INSPECTOR