



Appeal Decision

Site visit made on 15 November 2022

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/A5840/W/22/3296547

83 Evelina Road, London SE15 3HL

- 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 Chriss Jackson of Nun Head Car Wash Ltd against the decision of London Borough of Southwark Council.
 - The application Ref 21/AP/2214, dated 24 June 2021, was refused by notice dated 31 January 2022.
 - The development proposed is use of land as car wash and valeting centre.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It has been brought to my attention that the Southwark Plan 2019-2036 was adopted on 23 February 2022 (Southwark Plan 2022). It replaces the saved policies of the Southwark Plan (2007) and the policies within the Southwark Core Strategy (2011) referred to in the Council's reasons for refusal. It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. I have therefore assessed the appeal against the policies in the Southwark Plan 2022 identified as relevant to the proposal by the Council in their Officer's Report. The main parties have been given an opportunity to comment on the relevant policies contained in the Southwark Plan 2022 and therefore neither party would be prejudiced by me determining the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of the occupants of neighbouring residential properties, with particular regard to noise and disturbance; and
 - Whether the proposal adequately deals with waste water, with particular regard to the discharge of waste water onto the public highway and its effect on highway safety.

Reasons

Noise and Disturbance

4. The appeal site is located adjacent to Evelina Road on the edge of Nunhead Local Town Centre, close to shops and services. There is a viaduct in this

location that allows the railway lines from Nunhead Station to cross Evelina Road and part of the site is located under one of its arches. The site is next to a car garage and MOT centre. Opposite is a block of flats and on the same side further along Evelina Road are more residential blocks. Residential properties adjacent to the site include 81 Evelina Road and 89 and 91 Kimberley Avenue with 93 Kimberley Avenue also in close proximity. The site is currently vacant with some single storey structures on the eastern side furthest from the road.

5. Evelina Road has a relatively vibrant character with frequent pedestrian and vehicle movements, although the side roads near to the site leading from Evelina Road, such as Kimberley Avenue, are much quieter. The main contributor to background noise in the immediate area is the traffic using Evelina Road. The level of traffic noise is high and fairly constant, although when there are gaps in the traffic the level of background noise drops significantly. The road surfaces were wet at the time of my visit, and this added to the level of noise that I experienced. There is also noise from trains on the railway lines above, although this is intermittent and at a lower level than the traffic noise. There were no other significant sources of background noise at my time of visiting from either the other commercial businesses in the area, customers visiting these businesses or other pedestrian activity.
6. I have carefully considered the Mechanical Noise Report provided by Soundtesting acoustic consultancy and air leakage specialists dated Monday 24th May 2021 (Noise Report). Due to a noise abatement notice the operation of the car wash for the purposes of the noise assessment was not allowed. The assessment was therefore carried out using historical data from a similar site to represent the sound levels to be expected from the proposal.
7. The Noise Report concludes that the noise impact from the car wash is likely to be low and that no further mitigation would be required to reduce operational noise levels. The assessment shows that the residential block opposite the site would experience the highest level of noise from the car wash activities, although the levels would be 12dB lower than the background noise experienced and therefore low impact. This would be the similar for other residential properties located on Evelina Road.
8. I acknowledge that 12dB below background level would allow for potentially lower background levels which may occur outside the time sampled during the survey. Nevertheless, the noise generated by the operation of the car wash has been witnessed by both officers of the Council and an Inspector during the assessment of a previous application for the proposal and related enforcement investigation. I understand that they identified the noise from the site as different in character to more standard urban noise, including noise from trains, and concluded that it was likely to be causing harm. Given these observations relate to the same operations as those proposed they carry some weight in my decision.
9. Furthermore, in addition to the noise assessment being partly theoretical, there appear to be some limitations to the assessment. The background noise levels were only measured in one location, adjacent to Evelina Road, and the microphone positioned very close to the highway. While this would adequately assess the effect of noise on those properties close to or on the opposite side of Evelina Road, it does not take account of properties further from the road, such as those along Kimberley Avenue and their rear garden spaces, where the

background levels of noise are likely to be significantly less. I observed on site that the traffic noise along Kimberley Avenue, even close to the junction with Evelina Road, was far less than on Evelina Road itself.

10. There is no dispute that the jet wash would produce a noise with a distinctive character and the noise assessment includes a penalty for this. The assessment also shows that the peak in the noise produced by the jet wash would at times exceed 75dB, which is significantly greater than the equivalent continuous sound level of 67.2dB. It may be that nearby residents are used to a higher level of background noise than residents living in quieter solely residential areas. However, the distinctive character of the noise produced by the jet wash would peak above the more ordinary road noise which drops significantly when there are breaks in the traffic. This peak in noise would be intrusive and would harm the living conditions of nearby residents, particularly the occupants of 89, 91 and 93 Kimberley Avenue, who are also likely to experience harm from the more continuous sound of the car washing activities.
11. It has been put to me as part of the appellant's statement that the issue of noise and disturbance could be resolved by a planning condition or planning obligation limiting the hours of operation to normal hours of work. However, this does not mitigate the type or level of noise being produced and, although less residents may be at home during these times, it would not address the harm I have identified. Therefore, limiting the hours of operation whether by condition or planning obligation would not make the development acceptable. It is also suggested that the Council could propose mitigating measures to further reduce the noise on site, yet there are no details before me as to what these mitigation measures might be.
12. The appellant has referred to other examples of similar developments that have been granted planning permission in the Borough. However, these developments are not directly comparable to the proposal. One relates to an automated car wash facility where the cars and noise would be contained to some extent. One is for temporary permission, and the other within a supermarket car park. The context of each of these sites is also quite different from the appeal site, as they appear to be within areas with a far greater number of and/or larger scale of commercial and industrial use. These examples therefore can be afforded little weight.
13. For the reasons above, the proposal would have an unacceptable impact on the living conditions of residents of neighbouring residential properties with regards to noise and disturbance. The proposal would therefore conflict with policies P56 and P66 of the Southwark Plan 2022 and policy D14 of the London Plan (2021). These seek to protect the amenity of present occupiers including the impacts of noise and mitigate any adverse impacts caused by noise on health and quality of life.

Waste Water

14. The appeal site has a surface water drainage system and consent to discharge trade effluent into the public water and/or combined sewers has been granted by Thames Water. Notwithstanding this, there are parts of the site, specifically the north entrance, where the land slopes away from the gullies and drains that make up the system and towards Evelina Road. If cars were washed in these areas, there would be a risk of surface water running onto the highway.

15. Nevertheless, the evidence before me shows that cars would be washed under the archway where water would be discharged into the drainage system. Requiring cars to be washed in this area could be secured by condition. The risk of surface water from the car wash running onto the highway is therefore limited. Furthermore, I visited the site during wet weather after a period of very heavy rain and there was little surface water on the highway. While it would be beneficial for the car wash to recycle grey water where possible, this would likely be challenging given the range of chemicals that may be used.
16. Paragraph 111 of the National Planning Policy Framework (the Framework) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. I also note that the Council's Transport Team did not raise any objection to the proposal. Accordingly, for the reasons above, the proposal would not compromise highway safety. It would therefore accord with Policy P50 of the Southwark Plan 2022 that seeks to ensure safe and efficient operation of the road network and the aim of the Framework to prevent any severe impacts on the road network.

Conclusion and Planning Balance

17. Overall, while I found the proposal would adequately deal with waste water and thus not compromise highway safety, this absence of harm neither outweighs nor addresses the harm to the living conditions of occupants of neighbouring residential properties with regards to noise. The proposal would therefore conflict with the development plan when read as a whole.
18. The proposed development would bring a vacant site back into use, which at present is relatively unsightly and attracts some anti-social behaviours. The effective and efficient use of land, including the development of under-utilised land and buildings is supported by the Framework and Policy GG2 of the London Plan. While this weighs in favour of the proposal, paragraph 119 of the Framework is clear that the effective use of land should also ensure safe and healthy living conditions. Accordingly, this benefit neither outweighs the harm I have identified nor provides justification for development that conflicts with the development plan. Therefore, the appeal is dismissed.

Hannah Guest

INSPECTOR