



Appeal Decision

Site visit made on 28 February 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P4605/W/22/3306478

Rear of 989-991 Tyburn Road, Erdington, Birmingham B24 0TJ

- 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 S A Hassan against the decision of Birmingham City Council.
 - The application Ref 2022/04346/PA, dated 9 September 2021, was refused by notice dated 25 July 2022.
 - The development proposed is Change of use of existing rear single storey workshop and car park/yard to car wash and valeting services.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above is taken from the application form. However, it is clear from the appellant's Design & Access Statement, appeal statement and submitted plans that the proposal also includes the installation of a powder coated roller shutter on the workshop. This is reflected in the Council's description on the decision notice, which the appellant subsequently uses on his appeal form. As the Council determined the application on the basis of including the roller shutters, so shall I notwithstanding the description on the application form.
3. The site is already operating as a car wash and valeting business, as set out in the planning history and evidenced by the signage at the site advertising 'Tyburn Road Hand Car Wash' and the cars I saw being washed and valeted during my site visit. Whilst part-retrospective, for the avoidance of doubt I have considered the development on its planning merits based of the proposed plans, which differ from what exists on site.

Main Issues

4. The main issues in this appeal are the effect of the proposal on (i) vehicle and pedestrian safety, and (ii) the living conditions of existing nearby residents with particular regard to noise and disturbance.

Reasons

Vehicle and pedestrian safety

5. The appeal site is located in a mixed residential/commercial area to the rear of premises that form part of a parade of shops and businesses with some residential flats above as part of the Kingsbury Local Centre. It is close to a

traffic-light controlled junction on the busy Tyburn Road, which is a dual carriageway.

6. Access to the workshop and yard uses an existing gated entrance/exit in the gap in the row of buildings between 987 and 989 Tyburn Road. This necessitates vehicles turning off Tyburn Road and driving across the wide pavement. The gated access opening is only wide enough for one vehicle at a time. Adjacent to the access is a footpath that runs along the side of the appeal site and links with Kingsbury Road and which I walked. There is demarcated on-street parking in front of the parade on Tyburn Road.
7. A previously refused planning application¹ for the change of use of the workshop and rear yard to a car wash and valeting services proposed 2 car wash/valeting bays. The current application the subject of this appeal proposes only a single car wash/valeting bay. However, there are a number of discrepancies regarding the proposal.
8. The appellant's Design & Access Statement (the 'DAS') still refers to the previous proposal for 2 car wash/valeting spaces. This is at odds with the proposed floor plan² that shows one rectangular bay marked out and annotated with an arrow as '1 car wash/car valeting bay.'
9. Paragraph 1.4 of the Appeal Statement states that the previous refused application has been amended by the reduction in valeting bays to a 'single enclosed bay'. However, paragraph 4.3 refers to 'indoor car wash and valeting bays'³ in the plural with car parking in the rear open yard. Hand drying, hand valeting services and jet washing will be carried out inside the workshop.
10. However, paragraph 6.12 states that whilst jet washing would be carried out inside the workshop, 'the drying and valeting work is to be carried out by hand outside in the car park'. This contradicts paragraph 4.3 and the proposed plans. It is therefore unclear what particular aspects of the car washing/valeting services would be carried out in the open rear yard and what would be carried out inside the workshop.
11. The proposed plan shows spaces for five vehicles in the yard. However, considering the above discrepancies it is unclear whether valeting would also be carried out on cars in these spaces, or whether the bays are reserved for customers awaiting a car wash/valet or when cars have been washed/valeted they are parked ready for returning customers.
12. The number of parking bays in the yard would be fixed and the parking bays would be clearly marked, which was not the case on my visit. However, this could be a requirement of a planning condition if I were minded to allow the appeal.
13. I appreciate that the number of customers and vehicles would vary at different times of the day and days of the week. During my visit a vehicle was already inside the workshop being valeted. Two other vehicles arrived. They did not have to queue and were both jet-washed simultaneously outside in the rear yard by two members of staff. One of the washed vehicles was later driven into

¹ LPA ref: 2021/08187/PA refused 1 April 2022

² Drawing no. PA5154-03

³ Section 4 also contains other typographical errors in referring to a 'replacement dwelling' - so the word 'bays' could also be a typographical error.

the workshop to be dried beside the one already being valeted. The other vehicle that had been washed was left in the rear yard – I did not see if this car was later dried or valeted inside the workshop space. If during my visit other vehicles had arrived for a car wash and/or valet, there would have been limited space for them to wait/park in the rear yard, to be washed or valeted and for vehicles to manoeuvre. If even more had turned up then those vehicles would have had to wait on the pavement in front of the shops.

14. Having a single car wash bay would reduce the turnover of vehicles that could be washed and/or valeted at a time. Vehicles turning up to be washed or valeted would have to wait on the pavement to let any finished vehicles out. If there was no capacity on site, vehicles would have to wait on the pavement. With only one vehicle able to be valeted or washed at a time, the wait would be longer than presumably occurs now with 2 vehicles capable of being washed at the same time. The appellant suggests the wait would only be a few minutes, with scope to wash/valet about 5-6 vehicles an hour.
15. The appellant states that customers would not wait and instead would go to another car wash in the area. Some people may not go elsewhere. The appellant would operate a banksman at the site entrance to control traffic in/out of the site. However, I am not satisfied this would have sufficient effect to prevent queues or traffic backing up on Tyburn Road, especially at busy times. If vehicles have already turned off Tyburn Road and are already on the pavement before discovering the car wash/valeting bays are full it would not be easy for customers, on finding the facility is full, to potentially reverse out of the site entrance and/or manoeuvre on the pavement with other cars and pedestrians around.
16. Instead, vehicles would likely queue with the potential to impede the use of the on-street designated parking spaces and the flow of traffic on the dual carriageway, even though vehicles can only go one way on this side of Tyburn Road. Queuing cars across the pavement would also conflict with pedestrians, including children and those with impaired mobility, wheelchair users or people with pushchairs/prams, causing conflict and danger with vehicles and pedestrians.
17. Third party representations refer to the existing problems in the shopping area with vehicles driving and parking on and over pavements, continually damaging bollards which are there to restrict pavement parking. During my visit I observed a number of vehicles, unconnected with the proposed development, already parked on the pavement and others drove onto the pavement and parked in various undesignated places to visit shops and the cash machine, when there was ample on-street parking.
18. The site may have a commercial history with no restrictions on vehicle movements to the yard, and in the past vehicles may well have crossed the pavement to access the rear yard as part of the previous use. However, the proposed car wash/valeting business is of a different nature with unpredictable numbers of vehicles arriving at the site, 7 days a week.
19. The various discrepancies cause me to question overall how the car wash/valeting services on the site would operate, and hence it is not possible to fully assess the impacts on vehicle and pedestrian safety, and indeed noise and disturbance which I discuss later. Without knowing exactly it would also not be appropriate to limit various activities by condition.

20. From the evidence before me, as well as my own observations, I am not satisfied that the car wash/valeting business as proposed would not cause conflict with vehicles and pedestrians, and thereby cause harm to pedestrian and vehicle safety.
21. Accordingly, the proposal would be contrary to Policies PG3 and TP44 of the Birmingham Development Plan⁴ (the BDP) and Policy DM14 of the Development Management in Birmingham DPD⁵ (the DMB). Collectively these seek to ensure development creates safe, convenient, and appropriate access arrangements and safe and attractive streets and environments for people to move around.

Noise and disturbance

22. From the pavement outside the row of shops the noise of jet washing and valeting was not unduly discernible due to the background noise of traffic on the Tyburn Road and the site being to the rear of the parade of shops.
23. However, the sound of the jet washers and the vacuum cleaners used for the valeting were clearly audible from within the site and staff had to shout. The activities were also clearly audible from the footpath alongside the site, which runs beneath some of the flats above the shops on the other side of the tall boundary wall. The nature of the noise from the jet washers was unpredictable and stop/start. There was also noise of vehicles being manoeuvred on site.
24. According to the signage the car wash is open 7 days a week, although no hours are displayed. Apparently, this type of car wash normally operates from 0800 – 2100 hours 7 days a week. However, the appellant is proposing to restructure the business to operate between 0900-1830 hours Monday to Saturday and 1000-1600 hours on Sundays and bank holidays in order to align with standard business hours in the area to help avoid nuisance and disturbance.
25. The Council's Regulatory Services have raised no objections, subject to a condition restricting operating hours. There is some dispute as to whether the upper floors above the shops and businesses are all in residential use. It maybe the case that not all are occupied, but it was clear to me that residential accommodation exists above the parade of shops and businesses on either side of the site and their windows overlook the rear yard and workshop. Even in the block of flats angled away from the site, the flats are still in close proximity and occupiers would be able to look down into the site and hear noise from it.
26. The cumulative effect of the noise from jet washers, vacuum cleaners, and general comings and goings of people and vehicles, as well as the manoeuvring of vehicles within the site during the different stages of the wash and valeting activities, would cause general noise and disturbance to residents living in nearby flats.
27. The operational hours, with about 50 vehicles a day or 5-6 vehicles an hour would give residents little respite from noise and the general comings and goings of vehicles and engine noise as vehicles are manoeuvred/parked on the site during the different stages of a wash and valet, particularly at weekends and bank holidays and in warmer months when windows are more likely to be open.

⁴ Adopted January 2017

⁵ Adopted December 2021

28. The building has also apparently been insulated to make it more soundproof, but I have no verification of this and the workshop looked to be in a basic state of repair. The roller shutter had not been installed. Such measures would help reduce noise levels, but would require the roller shutter door to be fully closed when cars are being washed and/or valeted inside the building. These measures would do nothing to reduce noise and general disturbance in the outside yard from the valeting and vehicle manoeuvring.
29. Even if I were to condition that the premises could not operate at weekends or bank holidays, due to the discrepancies already highlighted it is unclear what parts of the site would be used for what car wash/valeting functions during the rest of the week. An hours' condition would not prevent the comings and goings of people and vehicles. In any event, changing the operating hours would not overcome the harm to highway and pedestrian safety I have identified.
30. Accordingly, the proposal would be contrary to BDP Policy PG3 and DMB Policy DM2, which collectively seek to ensure development responds to the local area context and is appropriate for its location and does not result in unacceptable adverse impacts on the amenity of neighbours, including through noise and compatibility of adjacent uses.

Planning Balance and Conclusion

31. The site already benefits from a commercial use with existing access and unfettered vehicle movements, and there are other commercial uses adjacent to the site. The proposal would bring a vacant unit back into active use. There would be 4 jobs created which would be of a benefit to the local community and there may well be some linked trips and boost to local spend to the local shops and businesses while customers wait for their car to be cleaned and/or valeted.
32. The proposed external alterations would improve the appearance of the workshop building. However the yard and workshop building do not front the street and hence this would not have a significant effect on the streetscene of the area. The proposal may provide a car wash facility in the local area, but I am advised there are a number of others in the area that customers can drive to such that the proposal would not be a particularly sustainable form of development. However, these factors, alone or in combination, do not outweigh the harm to pedestrian and vehicle safety or to the living conditions of existing residents.
33. For the reasons given above I conclude that the appeal is contrary to the development plans as a whole and should be dismissed.

K. Stephens

INSPECTOR