



Appeal Decision

Site visit made on 18 April 2024

by C J Leigh BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/C5690/C/23/3322255

191D Perry Vale, London, SE23 2JF

- 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 Joseph Bavton against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The enforcement notice, numbered ENF/22/00201 was issued on 5 April 2023.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use to a *sui generis* tyre changing and selling business, unauthorised signage and unauthorised structure.
- The requirements of the notice are:
 - (1). Cease the unauthorised use of the property as a tyre changing and selling business (*sui generis*) AND
 - (2). Remove the unauthorised structure within the yard, as identified on Photograph A, attached AND
 - (3). Remove any and all signage to the front of the premises relate to the current unauthorised use; including, but not limited to; fascia boards, the projecting box sign and any other signage AND
 - (4). Make good all damage resulting from the compliance with the requirements of steps (1), (2) and (3); AND
 - (5). Remove all materials, debris, waste and equipment resulting from compliance with Steps (1), (2), (3) and (4) of this Notice from the land.
- The period for compliance with the requirements is three months from the date the notice takes effect.
- The appeal is proceeding on the ground set out in sections 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Formal decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (a) – the deemed planning application

2. The main issues in this appeal is the effect of the development on, firstly, living condition of adjoining occupants; secondly, highway safety; and thirdly, the character and appearance of the surrounding area.

Living conditions

3. The rear of the appeal site is an open area of land with direct access to Siddons Lane, and on this area of land tyre fitting and sales operations are undertaken. I saw at my site visit that this land adjoins residential properties. Whilst the area of Perry Vale to the south is busy with commercial uses and traffic, Siddons Lane in the vicinity of the site and further to the north is a generally quieter residential area.

4. The tyre fitting area is fenced on three sides, and partly to the front, but I did not see, or have been informed of, any clear noise mitigation measures that would reduce what will be a noisy activity when being carried out. Submissions from a number of neighboring residents confirm that work takes place throughout the day and leads to noise disturbance to their properties, which arises from the use of tools and particular activities associated with the tyre fitting and sales business.
5. From what I saw on site, and from reading the submissions of the Council and third parties, I have little doubt that the tyre fitting and sales activities on this area of land are harmful to residential amenity. Due to the generally quiet nature of the road and the very close proximity to residential properties, I consider the intrusive nature of such activities to be unacceptable at any time of the day or evening, and this view is supported by neighbours' submissions. Thus, restricting the hours of use through the use of a planning condition would not address the noise impact of the use. Given the very open nature of the site and close proximity to residential properties it is not apparent to me that a condition requiring a reduction in noise or a mitigation plan against noise could be achieved, and no such plan in draft or finalised is before me.
6. I acknowledge that the tyre fitting business provides a service needed by motorists and employment, and I note some submissions in support of the business. However, I must balance these matters against other issues of acknowledged importance, which includes ensuring the living conditions of residents are protected. The location of the use is not acceptable for the reasons given, and hence the harm to amenity outweighs those other considerations. The development is thus contrary to Policy D13 of the London Plan 2021 and DM Policy 26 of the Lewisham Development Management Local Plan 2014, which seek to protect the living conditions of neighbouring occupiers, including with regard to noise intrusion.

Highway safety

7. Access to the tyre fitting and sales area is from a dropped kerb to the highway. The area is of limited size, with limited visibility due to parked vehicles on the highway and the wooden structure on the appeal site. Evidence from the Council and third parties demonstrate to me that deliveries to the business frequently take place from the road, with the result that access is blocked. I have also been informed that vehicles within the yard can overhang the pavement, and hence restrict pedestrian movement and also be a further danger to highway safety.
8. Due to the evident degree of disruption to the highway network and the pavement, I am not persuaded that a planning condition limiting the deliveries to certain times, and also requiring a servicing plan, could be devised that would address the above concerns; in any event, no such plan in draft or finalised form has been put to me. The development therefore conflicts with Policies T4 and T7 of the London Plan, which require adequate delivery and servicing to developments and that there should not be any increase in road danger.

Character and appearance

9. The tyre fitting use has seen the installation of signage at the property of 191d Perry Vale. I saw there are signs at commercial properties along Perry Vale,

and on properties as they turn the corner into Siddons Lane, but this signage is generally contained to the fascia above shop windows. The fascia and signs at the appeal property exist to the side and beneath the windows and, when considered cumulatively, is an excessive amount of signage that overwhelms the appearance of what is a modest building of traditional design, form and appearance when viewing along Siddons Lane and from Perry Vale.

10. The unwelcome impact of such views is particularly noticeable given the residential character of Siddons Lane. I accept that the business will wish to draw attention to potential customers due to being located just off Perry Vale, and the projecting sign assists in this, and in itself is of modest proportions that does not overwhelm the building. However, it is the extent of all the other signage that leads to the overpowering visual impression.
11. DM Policy 19 of the Local Plan seeks to ensure shopfronts are of high quality materials and are a design that relates well to the host building, and makes a positive contribution to the street. The shopfront at the appeal property does not satisfy this requirement and so conflicts with the development plan.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal decision

13. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

C J Leigh

INSPECTOR