



Appeal Decision

Site visit made on 29 May 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2024

Appeal Ref: APP/B0230/W/23/3331670

223-225 Selbourne Road, Luton LU4 8NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Faimzy Estate Limited against the decision of Luton Borough Council.
 - The application Ref is 23/00792/FUL.
 - The development is change of use of land to a hand car wash (*sui generis*).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address listed in the appeal form and on the Council Decision Notice as this omits the reference to "car wash at". The description of development is taken from the decision notice as this accurately and succinctly describes the development proposed.
3. It was apparent from my site visit that the change of use has occurred and is operational. I have considered the appeal accordingly on this basis.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area,
 - highway safety; and,
 - the living conditions of the occupants of 298 and 300 Selbourne Road with regards to noise and disturbance.

Reasons

Character and appearance

5. The appeal site comprises a large area of hardstanding that is adjacent to an existing industrial building. It is located within a Category A Employment Area. The surrounding built form and character vary because of the different industrial and commercial land uses in conjunction with residential uses. Buildings within the immediate street scene are typically set back from the road with open forecourt parking.
6. The car washing takes place underneath a shelter attached to a smaller kiosk. Even though the kiosk and shelter are single storey structures, they have very

little design merit. The contrasting external materials consisting of timber and steel give a utilitarian and temporary appearance which is incongruous in this local context which generally consists of buildings with a more permanent appearance.

7. There are clear views of the appeal site from public vantage points. Whilst there are buildings on either side of the site, the land to the rear of the site is relatively open. Because of this, the kiosk and shelter stand out conspicuously against this more open backdrop. Both elements are therefore prominent in the street scene. Due to their design and overall appearance, the kiosk and shelter fail to visually integrate into the street scene in an acceptable manner to the detriment of the local character and context and are significantly harmful in this regard.
8. For the reasons given above, I conclude that the proposal causes harm to the character and appearance of the area. Accordingly, it conflicts with Policies LLP1 and LLP25 of the Local Luton Plan 2017 (the Local Plan) which amongst other things, requires development to be of a high quality design and improve the character of the area.

Highway safety

9. This stretch of Selbourne Road is subject to parking restrictions on both sides and there are some designated parking bays along the road. Several businesses in the area use their forecourts as formal and informal parking areas.
10. Instances of inconsiderate and illegal parking are matters for the Highway Authority. However, the road conditions cannot be overlooked. Evidence before me including representations suggests there is a high demand for on-street parking with occurrences of inconsiderate parking, and this reflects what I observed at my site visit. I also observed the unloading of heavy goods vehicles which were parked on the road. This coupled with the on-street parking in designated and undesignated parts of the road restricted the continuous flow of traffic as cars were unable to pass causing the traffic to back up.
11. The appellant asserts that the traffic associated with the proposal is 'occasional'. However, there is limited information concerning the likely customer numbers across different times to demonstrate that this is the case. There is also a lack of clarity regarding the number of parking spaces and whether these would be for customers or staff. Therefore, should several customers visit the car wash at the same time, there is the potential for vehicles to queue back onto the road, increasing congestion with consequential harm to highway safety on an already busy road.
12. Whilst the car wash may have no on-street parking requirement, the appellant's statement of case describes the appeal site as a former car park and explains that the car wash is operating in the yard of an existing factory unit. Without evidence to the contrary, it is likely that the proposal has resulted in cars being displaced onto the road through the loss of the car park, thereby increasing demand for on-street parking, leading to further incidences of inconsiderate and dangerous parking and causing obstructions to the highway, which disrupts the free flow of traffic and risks the safety of pedestrians.

13. The appeal site is not served by a vehicle crossover. In this case, nothing has been put forward to indicate where the vehicle crossover would be installed and whether this would be feasible. As such, this matter could not be dealt with via condition. Consequently, the proposal would not secure safe and suitable access to the site.
14. For the reasons given above, taken together, there is harm to highway safety. Accordingly, the proposal conflicts with Policies LLP25, LLP31 and LP32 of the Local Plan which amongst other things requires development to be safe, to reduce road congestion and avoid an adverse impact on areas through displaced parking.
15. The proposal also conflicts with the sustainable development principles of Policy LLP1 of the Local Plan which encourages growth and sustainable development provided that this growth is directed to areas where there is capacity.

Living conditions of the occupants of 298 and 300 Selbourne Road

16. Despite the presence of residential properties nearby, the road itself is busy due to the various activities of the existing businesses. Whilst there are limited details regarding the associated vehicular movements with the car wash, given the industrial context of the appeal site, the coming and going of vehicles and the parking of cars within the site are not out of character.
17. The nearest residential properties to the appeal site are 298 and 300 Selbourne Road. Although adjacent, these properties are on the other side of the road. They are also situated between existing commercial and industrial buildings. There is noise from the operation of the car wash, and some noise is also generated from the traffic along the road and the activity of the various businesses.
18. The operations of the proposal through the washing and cleaning of the cars and associated comings and goings are likely to generate some noise. However, the opening hours could be conditioned so that potential noise from these activities is focused to times of the day when a degree of background noise is to be reasonably expected, given the context of the area.
19. As appropriate noise mitigation measures could be secured by planning conditions, this would ensure that the proposal does not adversely harm the living conditions of the occupants of 298 and 300 Selbourne Road with regard to noise and disturbance. The proposal would therefore comply with the aims of the Framework which seeks to ensure that development provides a high standard of amenity for existing and future users.

Other Matters

20. Both reasons for refusal refer to Policy LLP14 of the Local Plan which relates to employment areas. The proposal does not result in a loss of floorspace, or relate to the redevelopment, extension and intensification that would result in additional floorspace for a use specified in the policy. Therefore, there would be no conflict with the policy.
21. The length of time that the car wash has been in operation is a neutral consideration and would not weigh in support of the proposal.

Conclusion

22. The proposal causes harm to the character and appearance of the area and highway safety. I place great weight on this harm.
23. Subject to planning conditions, the operations of the car wash would not cause harm to the living conditions of the occupants of 298 and 300 Selbourne Road with regards to noise and disturbance. The lack of harm in this regard is a neutral factor. The proposal is also likely to provide some limited employment opportunities and economic benefits. However, taken together, these limited benefits would not outweigh the harm I have identified above including the conflict with the development plan.
24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

L Reid

INSPECTOR