



Appeal Decision

Site visit made on 18 June 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: **1st October 2024**

Appeal Ref: APP/B0230/W/24/3337562

1 Langley Terrace Industrial Park, Latimer Road, Luton LU1 3QX

- 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 Mr Al Alabsi (Al Sultan Properties Limited) against the decision of Luton Borough Council.
 - The application Ref is 23/00616/COU.
 - The development proposed is described as: a change usage from "warehouse and premises" to "light car motor vehicle maintenance".
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Decision

1. The appeal is allowed, and planning permission is granted for change usage from "warehouse and premises" to "light car motor vehicle maintenance" at 1 Langley Terrace Industrial Park, Latimer Road, Luton LU1 3QX in accordance with the terms of the application, Ref 23/00616/COU, dated 11 July 2023, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The description used in the application form repeated the location of 'Luton' in the address. To improve clarity, the banner heading has been updated to remove the duplicate.
3. I have taken the description of development in the banner heading above from the planning application form. However, I have removed 'No change to the building either externally or internally' from the description as this is not an act of development.
4. The appeal site is already being used for vehicle maintenance and repair. I have therefore determined the appeal on the basis that the development has already occurred.
5. In 2011, the appeal site received temporary planning permission for use as a personal training and sports therapy facility, which expired on 29th September 2014. Since no further applications were submitted, the site reverted to its previous use after the temporary permission lapsed. Evidence indicates that the site has been used for vehicle repair (Class B2) since 2019, although its permitted use remains Class E.

Main Issues

6. The main issues are:
 - the effect of the proposal on the living conditions of nearby residents, with particular regard to noise and disturbance; and

- the effect of the use of the proposal on highway safety, with regard to the parking arrangement.

Reasons

Living Conditions – Neighbouring Occupiers

7. The appeal site occupies a corner plot within the Langley Terrace Industrial Estate. There are 18 other units within the estate, which includes auto parts stores, door suppliers and commercial printers. Adjacent to the estate is the Flowers Industrial Estate, which includes vehicle repair shops, motorsports shops and car security system installers. The local area also contains several vehicle related buildings, such as several MOT centres, car body shops and vehicle repair shops.
8. Immediately behind the appeal site, there is a residential area called Albert Gardens, located off Albert Road. According to the plans, Albert Gardens is comprised of 24 dwellings. Due to the close proximity of these residential properties to nearby estates and related buildings, it is likely that the occupants are already impacted by the commercial and industrial activities in the surrounding area.
9. I have considered the potential noise emissions at the appeal site. Compared to its permitted Class E use, the vehicle maintenance and repair activities at the site could generate louder, less predictable noises. However, with only one car lift installed and given the limited size of the appeal site, the number of vehicles serviced at any given time would be very limited. Moreover, given the presence of numerous other industrial buildings nearby, it is unlikely that the change of use would significantly increase overall noise levels. Nonetheless, to address potential noise increases, I shall impose a suitable condition to restrict working hours to minimise any effect on living conditions. Such a condition would be precise and reasonable and would comply with the relevant tests in paragraph 56 of the National Planning Policy Framework (Framework).
10. In reaching this view, I have considered that objections were primarily focused on parking and congestion issues at the estate, rather than noise-related complaints from local residents. Additionally, since the unit has been operating as a motor vehicle repair centre since 2019, there have been no noise-related complaints or objections from adjacent residents. As such, there is limited evidence that noise has significantly affected the living conditions of the occupiers of neighbouring dwellings.
11. I recognise that the development could result in other B2 uses occurring at the appeal site which could be unsuitable, due to the proximity of residential dwellings nearby. To address this, I have added a condition to limit the use of the appeal site to that of light vehicle maintenance.
12. The development complies with the protections for a Category B employment area. While the change of use would result in additional floorspace for B2 uses, it would not have unacceptable implications for amenity or traffic and would provide an appropriate size and range of units. Concerns regarding parking will be addressed later.
13. In conclusion, the appeal scheme would not harm the living conditions of nearby residents, with particular regard to noise and disturbance. Accordingly, it would be adaptable to changes of use and flexible to accommodate changing

living and working requirements of all the members of the community in compliance with Policy LLP25 of the Luton Local Plan 2017 (the LP). It would protect Category B employment areas, by providing additional floorspace for B2 uses in compliance with Policy LLP14 of the LP. Accordingly, it would accord with local plan policies, in compliance with LLP1 of the LP.

Highway Safety

14. The plans do not specify the dimensions or locations of the parking spaces allocated to the appeal site. Additionally, I did not observe any clearly marked out spaces during my site visit. Nevertheless, the Council's evidence is that each of the 18 units within the industrial estate has been allocated 2 parking spaces, including the appeal site. Despite the appeal site being situated at the far end of the estate, this does not preclude the possibility that more than 2 vehicles related to its operations could be parked around the site.
15. During my site visit on a weekday afternoon, I observed that the parking area within the estate was in high use. Additionally, I noted several parking restrictions on the highways outside the appeal site. Along Latimer Road, immediately outside the appeal site, single yellow lines and several short-stay 2-hour parking areas are present. Given these restrictions and the limited on-street parking opportunities, it is evident that there is a high demand and competition for unrestricted parking spaces around the appeal site. This could lead to parking displacement, ongoing issues as drivers seek alternative spaces in an area with already limited provision, and a heightened risk of illegal parking during peak periods in hazardous or unsuitable locations.
16. Objections predominantly focus on parking and congestion issues within the estate. They highlight ongoing challenges with vehicles occupying spaces designated for other businesses and visitors. One response attributed up to 8 vehicles at a time to appeal site operations. This could result in significant disruption during deliveries due to insufficient loading and unloading space being available. This could also lead to substantial parking challenges for staff, customers, and visitors.
17. Nonetheless, the appellant asserts that two parking spaces have been allocated to the appeal site, which aligns with the requirements for a VOSA-approved testing facility. Moreover, they maintain that the site is not used for parking vehicles that are not undergoing repair or maintenance, thereby limiting the overall potential for congestion in the area as a result of the development.
18. Based on the evidence before me, I have considered the potential parking and congestion issues at the appeal site compared to its prior use. The vehicle maintenance and repair activities at the site could result in more vehicles being parked around the area. However, limited evidence exists to attribute current parking stress solely to the appeal site. Additionally, no specific objections have been raised by the Council's highway advisors regarding the effect of the development on road safety along the estate service road. Nevertheless, to address Council and third-party concerns, I shall impose a suitable condition restricting the parking spaces which can be used by the appeal site and defining their location. Such a condition would be necessary, precise, reasonable, and compliant with relevant Framework tests in paragraph 56.
19. In conclusion, the proposal would not have a harmful effect on highway safety, with regard to the parking arrangement. Accordingly, it would be safe and

easily accessed by all members of the community, in compliance with Policy LLP25 of the LP. It would also ensure that the quality of the local environment is not compromised and reduces the safety risk to motor vehicles, in compliance with Policy LLP31 of the LP. It would accord with local plan policies, in compliance with LLP1 of the LP.

20. The Council alleges conflict with Policy LLP14 of the LP. However, this policy relates primarily to the safeguarding of employment areas. My attention has not been drawn to any wording in this policy that relates to this main issue. It has therefore not been determinative in my decision on this issue.

Other Matters

21. The Council is concerned that the development could make it difficult to resist similar proposals in the future, potentially setting a precedent that could negatively impact nearby residential dwellings. Nonetheless, I must consider the appeal scheme on its own merits and within the context of the area's existing local distinctiveness.

Conditions

22. As the change of use has already taken place, conditions relating to the time limit for implementation and compliance with plans are not necessary.
23. Condition 1 is imposed to restrict the opening hours of the appeal site, to ensure that the use of the site does not unacceptably affect the living conditions of neighbouring residential dwellings. When consulted, the appellant requested that the weekend opening hours be extended to match those of the weekdays. However, this would unacceptably affect the living conditions of neighbouring residents, who reasonably expect more restricted hours on weekends.
24. Condition 2 is imposed to ensure that a scheme for the parking of vehicles using the appeal site is submitted, approved and implemented to ensure highway safety. When consulted, the appellant expressed uncertainty about the need for these details, given that the business is already in operation. However, this condition is essential to prevent the vehicles from negatively affecting the parking conditions in the area. Additionally, there is a strict timetable for compliance because permission is being granted retrospectively and it is not possible to use a negatively worded condition to secure the approval and implementation of the vehicle parking arrangement before the development takes place. The condition will ensure the development can be enforced against if the requirements are not met.
25. Condition 3 prohibits outdoor storage of goods, waste, or materials without local planning authority approval, thereby limiting the risk of congestion around the appeal site.
26. Condition 4 restricts the use of the appeal site to light motor vehicle maintenance to address concerns that other B2 uses could occur which have a greater adverse effect on nearby residential dwellings

Conclusion

27. For the above reasons, taking into account all other matters, it is concluded that this appeal should succeed subject to conditions.

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INSPECTOR

SCHEDULE OF CONDITIONS

1. The use hereby approved shall only take place between the following days and hours:
 - Monday to Fridays 09:00 to 18:00
 - Saturday 09:00 to 16:00.
2. Unless within 3 months of the date of this decision, a scheme for vehicle parking (which includes a drawing demonstrating the position of the parking bays within the industrial park, those allocated to unit no 1 and a written statement as to how parking of own and customers vehicles will be managed), is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 1 month of the local planning authority's approval, the use of the site shall cease. Thereafter, all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.
 - If no scheme in accordance with this condition is approved within 3 months of the date of this decision, the use of the site shall cease, and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.
 - Upon implementation of the approved vehicle parking scheme specified in this condition, that scheme shall thereafter retained.
 - In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
3. No goods, waste, or other materials shall be stored in the open outside the appeal site unless in locations and containers (including skips) that have been approved in advance by the Local Planning Authority.
4. The premises shall be used for light car motor vehicle maintenance and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

End of Schedule