



Appeal Decision

Site visit made on 3 December 2024

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2025

Appeal Ref: APP/H0928/W/23/3327011

Esso Garage, Scotland Road, Penrith, Cumbria CA11 7NR

- 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 JJ Stamper, Davidsons Garage (Penrith) LTD against the decision of Eden District Council.
 - The application Ref is 22/0679.
 - The development proposed is construction of a waiting room and a car valeting bay.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.
3. Based on the evidence before me the appeal site was operated by Shell and then taken over by Esso. At the time of my site visit the garage had been re-branded as an Esso garage which was reflected in the signage. Therefore, in the interests of clarity, I have amended the site address from Shell Garage to Esso Garage.
4. I noted whilst on my site visit that a car hand jet wash and valeting business is currently operating from the site. Based on the submitted plans the development is not fully complete making it partially retrospective. I have determined the appeal on that basis.
5. The Council maintain that the use of the site as an independent hand car wash and valeting service does not have planning permission. They included the use in their description of the development when consulting on the application and decided the application on that basis.
6. There is no substantive evidence before me to demonstrate that the development is not part of a separate planning unit from the existing garage. It is also unclear that the use of the building as an automated car wash, ancillary to the garage, benefits from permitted development rights to allow for its use as a separate hand car wash and valeting service. I have therefore determined the appeal on the same basis as the Council.

Main Issue

7. The main issue is the effect of the development on the living conditions of the occupants of neighbouring properties in regard to noise and disturbance.

Reasons

8. The development is adjacent to an established petrol filling station which is accessed off Scotland Road, a busy main road through Penrith. The area is predominantly residential, and several dwellings are in close proximity to the appeal development, including Lark Lane Cottage which faces the rear elevation of the garage building and is next to the car valeting bay. The boundary between the appeal site and the front garden of this property is marked by timber fencing and a stone wall. Cars exiting the valeting bay pass the front of Lark Lane Cottage to exit the site via an existing vehicular access.
9. The car hand jet washing bay is at the back of the garage forecourt, it utilises the structure of an automated car wash that previously operated from the site and the associated machinery has been removed. The structure is open on two sides allowing cars to pass through, where handheld jet washers are used to wash cars. The development also includes a waiting room and a covered car valeting area with space for several vehicles.
10. A Noise Assessment by Martec Environmental Consultants Ltd, dated 10 October 2019, and a Technical Note by Martec Environmental Consultants Ltd, dated 4 December 2019 were submitted in support of the development. This information was prepared in support of a previous application for planning permission on the site, 19/0281. The findings of the noise report are based on a single point of assessment which was carried out over a short period on a Monday afternoon.
11. The Council's Environmental Health Officer raised concerns that the submitted Noise Assessment fails to take in to account the weekend period, when background noise measurements may be lower. They also considered that in order to gain a full assessment of the noise impact of the development, readings should have been taken from additional points including neighbouring property 23 Lark Lane. They assert that in not including these factors as part of the Noise Assessment the level of noise and in turn appropriate mitigation measures have not been fully considered.
12. The occupants of neighbouring properties raised objections in relation to the harmful impact of the development on their living conditions in regard to noise and disturbance, which included the weekend period. As such, the submitted Noise Assessment fails to address the concerns raised within the letters of objection from neighbouring occupants. Therefore, the Council were reasonable in requesting additional information in order to ensure that the concerns raised by neighbouring occupants were addressed and that any mitigation measures are suitable.
13. While the height at which noise measurements should be taken may be limited. It is not clear why readings could not be taken from several points, including from other neighbouring properties. Further, as no noise assessment was carried out on a Saturday and Sunday it is unclear that restricting the hours of operation would be sufficient to ensure that the development does not harm the living conditions of neighbouring occupants.

14. It is acknowledged that complaints and objections alone are not indicative that the submitted Noise Assessment is incorrect. However, due to its limited scope, it has not been clearly demonstrated that the development does not harm the living conditions of the occupants of neighbouring properties with regard to noise and disturbance. Further, as the Noise Assessment is based on a limited amount of information it does not allow for an accurate assessment of the suitability of possible mitigation measures.
15. For the reasons detailed above the development has a harmful effect on the living conditions of the occupants of neighbouring properties in regard to noise and disturbance. It is therefore contrary to Policies DEV5 and ENV9 of the Eden Local Plan 2014-2032 which requires that new development will be required to demonstrate that it protects the amenity of existing residents; and proposals for development likely to experience noise must be supported by an adequate assessment to assess risks and their acceptability.

Other Matters

16. The Noise Assessment also compared the noise level of the hand jet wash and an example of an automated car wash at another site. The appellant asserts that the use of the site as an automated car wash is a viable fallback position and the Noise Assessment found that the automated car wash used in their assessment was louder than the appeal scheme.
17. However, the machinery that formed the automated car wash, that was originally approved, has been removed. It is therefore unclear how likely it is that its reinstatement could be implemented. As well as requiring a very substantial financial investment, any reinstated automated car wash would need to match what was originally approved or would require a separate planning application if there were any material differences. In light of this I give only limited weight to the prospect of the site being brought back into its permitted use.
18. The Council raised no concerns regarding character and appearance, impact on the highway network and nutrient neutrality. Based on the evidence before me I have no reason to disagree with the Council. However, the absence of harm in these respects form neutral factors in my assessment of the appeal, weighing neither for nor against the development.

Conclusion

19. The development conflicts with the development plan. This conflict is not outweighed by other considerations. Therefore, the appeal is dismissed.

C Livingstone

INSPECTOR