



Appeal Decision

Site visit made on 17 December 2024

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14 APRIL 2025

Appeal Ref: APP/R4408/C/23/3329363

30 Church Way, Tankersley, Pilley, S75 3FP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Amy Wigfull against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The notice was issued on 15 August 2023.
 - The breach of planning control as alleged in the notice is the material change of use of the Land to a mixed use of a dwelling house and the operation of a beauty parlour (including the provisions of tattoo, fake eyelashes, eyebrows, as well as the base for related training courses).
 - The requirements of the notice are to (i) Cease the unauthorised change of use of the Land as a beauty parlour cited in Paragraph 3. (ii) Remove from the Land all equipment and materials associated with the use of the Land as a beauty parlour.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 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.
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Decision

1. 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).

Ground (a) and the deemed planning application

2. The main issues are the effect of the development on the residential amenity of the occupiers of neighbouring properties caused by vehicular traffic, parking and associated noise and pollution.
3. The appellant's case is that the alleged development should be granted permission as it is not very different from other examples of residential use. She states that the operation of her beauty and tattooing business is no different from other people working from home, and that she only operates between 9am and 3pm on week days, and not the longer hours suggested in some of the representations received.
4. In addition, the appellant argues that the commercial deliveries associated with the business only take place once every two months and that as the driveway can park two cars, and customers only come one at a time, there is adequate parking space. However, this is contradicted by the appellant also saying that she has asked customers to park outside of the estate, and a neighbour in support stating that on the occasion that there have been issues with the parking the appellant has quickly sorted them out when asked to do so. The appellant also states that she has ended the selling of goods for collection from the property, and also no

longer offers on-site training courses so that the use and number of people visiting the property has reduced.

5. The appellant does not argue that the development has not taken place, and I am satisfied that the material change of use as alleged in the notice has occurred. The business involves clients visiting the property for treatments and tattoos, and previously to collect products.
6. Many of the customers travel to the appeal site by car, and there is evidence, from both the appellant and interested parties, that these vehicles have parked on the roadside, both on and off the estate. This parking is in addition to that associated with the lawful residential use. Whether this additional parking is in the driveway, on road immediately outside of the property or on the edge of the estate, it still results in vehicular movements and parking associated with the commercial use. The roads on the new estate in particular have been designed for parking incidental to the residential use only. There is mixed evidence regarding whether the vehicle engines have been left idling, although the appellant accepts that this could have been the case by customers collecting products from the house which has now stopped. However, these significant comings and goings to the house in the quiet residential estate cause a material change to the character of the overall use of the planning unit. The beauty parlour business is different from a home-working office use as it involves clients coming to the house which involves additional comings and goings.
7. The business operates from the outbuilding at the rear of the property which adjoins the rear gardens of houses on Silkstone Close. The use of this building for the operation of the business causes a regular and increased use of this part of the appeal site, and an increase to the number of visitors with associated noise and disturbance which will adversely affect the occupiers of these adjoining properties.
8. I therefore find that the mixed use of the house which includes the commercial use as a beauty parlour causes harm to the living conditions of the occupiers of the neighbouring properties, due to the increased comings and goings, vehicular movements and parking, and increase in associated general noise and disturbance.
9. The appellant has stated that she has overcome some of the initial issues by asking clients to park outside of the estate, and ending the collection of goods from the property. The appellant also states that she now does more tattooing work which means that she has fewer clients. However, it would not be possible to impose planning conditions to ensure this restricted level of use, or limit the number of commercial deliveries to the house. It would be unreasonably onerous for the Council to have to attempt to detect a breach of such conditions.
10. It is also not possible to impose a condition to prevent the parking on the road which is not within the appellant's ownership or ultimate control. In any event, even the additional visits by clients on foot, and between the stated hours of business provided by the appellant, would cause unacceptable harm in terms of increased noise and disturbance.
11. I have not seen sufficient information to show that the development has led to increased pollution, but the commercial use is in conflict with Policy GD1 of the Barnsley Local Plan 2019 ("the BLP") which seeks, amongst other things, to

prevent development having a significant adverse effect on the living conditions and residential amenity of existing and future residents.

12. Whilst the beauty parlour does offer a local facility and employment opportunity for the appellant this does not overcome the harm caused by the development in the residential location as set out above.
13. Any conflict with the permitted use within the property deeds is a private law matter which is separate to the planning regime, and whilst I note that concern was raised regarding the commercial waste associated with the beauty parlour use I was not provided with any specific evidence or details about this, and any such issues are regulated by environmental, public health and waste laws.

Conclusion on ground (a)

14. The development causes harm to the living conditions of the occupiers of nearby properties, and is in conflict with the BLP as set out above. As there are no other considerations to outweigh this harm, the appeal on ground (a) fails and the deemed planning application is not granted.
15. 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).

Zoë Frank

INSPECTOR