The Planning Inspectorate

Appeal Decision

Site visit made on 6 September 2012

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 October 2012

Appeal Ref: APP/R4408/A/12/2171771
Former Star Filling Station, Pontefract Road, Cudworth, Barnsley, South Yorkshire, S72 8AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Mahmood Anwar against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2011/1553, dated 16 December 2011, was refused by notice dated 16 February 2012.
- The development proposed is a hand car wash and valet centre.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the living conditions of the occupants of nearby properties by reason of disturbance from noise and water spray drift and secondly, the character and appearance of the area.

Reasons

3. The appeal site lies at the junction of Pontefract Road with Intake Lane in a predominantly residential area. Residential gardens abut the site on its northern and eastern boundaries and new dwellings are currently being built on land on the southern side of Intake Lane. There are also residential properties on Pontefract Road, opposite the site. The previous use of the land as a petrol filling station ceased in 2004 and evidence of that use remains in the form of areas of hardstanding, a large overhead canopy and a small brick building with a flat roof. The site was subsequently used, on an unauthorised basis, as a car wash similar to that proposed although it is noted that the appellant had no involvement with the site at that time.

4. It is proposed that the washing of vehicles would take place in the north eastern corner of the site where the car wash was located when the petrol filling station was operating. The valeting of vehicles would take place beneath the canopy and the existing brick building would form staff and customer accommodation. It has been indicated that equipment would be housed in a unit to be sited adjacent to the existing building although details have not been submitted.

5. Whilst the site is relatively level there is a significant drop down to the residential gardens to the east and Intake Lane to the south. Existing solid metal fencing approximately 3 metres in height encloses the north eastern

corner of the site and whilst there is evidence that it extended at this height along the full length of the eastern boundary, it reduces to approximately 1 metre along the northern boundary. It is proposed that solid fencing would continue to be used to enclose these boundaries although its height would be increased in order to prevent water spray drift affecting neighbouring dwellings.

6. For the same purpose it is also proposed to enclose the boundary with Pontefract Road by the erection of a perspex screen approximately 2 metres in height set back from the edge of the footway and extending between the points of access and egress. Planting would take place in front of the screen and on the embankment along the boundary with Intake Lane, which is currently rough landscaped. No details of the fencing, perspex screen or planting have been submitted, although this is a matter which could be controlled by condition.

7. It is evident that the fencing failed to contain water spray during the previous unauthorised use and nuisance was caused to neighbouring residents. Whilst it is proposed to increase the height of the fence to help protect neighbouring properties from spray drift, there is insufficient evidence of the height which would be required to facilitate this, although it would be in excess of the existing fence.

8. The private rear gardens to the properties abutting the eastern boundary of the site are not very deep, giving little separation between the rear elevation of the dwellings and the site. In addition the properties are set on lower ground with their first floors being at a similar height to the ground level of the appeal site. The proposed fence on top of the existing retaining structure when viewed from within the properties and their gardens would therefore create a significant structure in terms of its overall height. Although the tree planting within the gardens would continue to break up views of the fence, it would still be a dominant feature in relatively close proximity to the rear elevation of the dwellings and would appear overbearing in the outlook from both the properties and their gardens. As a consequence any significant increase in the height of the fence would also be likely to raise additional issues in respect of living conditions.

9. Whilst vehicles arriving at and leaving the site as well as conversation between staff and clients would generate noise, it is the noise which would be generated by the equipment used for the washing and valeting of the vehicles that would have the greatest potential to cause a nuisance to residents. The Council has indicated that nuisance in this respect was caused by the unauthorised use. Although, the appellant contends that, following advice from a noise specialist, no nuisance would be caused by the proposed use, no evidence in support of this contention has been submitted.

10. It is proposed that all equipment would be housed within an insulated unit adjacent to the existing building on the site. However, no details of the equipment which would be used, the noise it would generate or any attenuation which would be provided by the unit in which it would be housed has been submitted. Although the control of operating hours by condition might help alleviate the concerns identified regarding noise, there would still be times, particularly at weekends, when residents would wish to use their gardens and could be subject to an unacceptable level of disturbance from noise.

11. It is noted that the appellant has had a number of years experience in the car wash business and is therefore mindful of the effect such a use can have on residents. It is accepted that the proposed development may not necessarily give rise to complaints from residents despite the similarities with the previous unauthorised use and that problems of vandalism and other anti social behaviour currently associated with the site might be overcome if it were to be brought back into use. However, the level of detail submitted is not sufficient to ensure that the concerns identified could be overcome satisfactorily.

12. Given the proximity of the site to residential properties, the evidence leads me to conclude that the development would create a level of disturbance from noise and water spray drift sufficient to cause harm to the living conditions of local residents, contrary to saved Policy H8B of the Barnsley Unitary Development Plan, 2000 and Policy CSP 40 of the Barnsley Local Development Framework Core Strategy, 2011 (the CS) which requires demonstration that a development would be unlikely to result in nuisance to residents. These policies reflect the guidance in the National Planning Policy Framework, 2012 (the Framework) which recognises the need to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and therefore significant weight can be attributed to them in the determination of the appeal

13. Despite being set back from the road the proposed fencing to the eastern and northern boundaries of the site would be visible from Pontefract Road, and its height and solid design, together with the retention of the existing canopy, would appear out of character with its residential surroundings. In addition the proposed perspex screen would appear alien in the street scene. Although planting on the embankment and to the site frontage would help soften views of the site from Intake Lane and Pontefract Road, overall the development would detract from the character of the area.

14. It is accepted that the site is currently unkempt and is subject to vandalism and the proposed development would bring it back into use. However, this does not carry sufficient weight to overcome the concerns regarding the detriment the development would itself cause to the character and appearance of the area, contrary to Policy CSP 29 of the CS which requires development to help transform the character of physical environments that have become run down. As the policy reflects the guidance in the Framework which seeks to enhance and improve the places in which people live their lives and secure high quality design significant weight can be attributed to it in the determination of the appeal.

15. For the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Kay Sheffield

INSPECTOR