Appeal Decision

Site visit made on 17 February 2009

by I D Jenkins BSc CEng MICE MCIWEM

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

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Decision date: 11 March 2009

Appeal Ref: APP/B4215/A/08/2091000
Land at the rear of K-P Hill Service Station, 355 Victoria Avenue, Higher Blackley, M9 8WQ

- 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 AA & R Kassam against the decision of Manchester City Council.
- The application Ref 085986/FO/2008/N1, dated 18 February 2008, was refused by notice dated 17 October 2008.
- The development proposed is the erection of 3 single-storey industrial units (Use Class B2).

Procedural matters

1. The proposed development is described on the planning application form as *3 no. small industrial units*. However, the appellants have indicated that this was revised, and agreed while the application was with the Council for consideration, to the *erection of 3 single-storey industrial units (Use Class B2)*. I have taken this into account and have reflected the revised description in the summary information above.

Decision

2. I dismiss the appeal.

Main issue

3. I consider that the main issue in this case is the effect of the proposal on the living conditions of neighbouring residents, with particular reference to noise and disturbance, and outlook.

Reasons

4. The appeal property is situated on a corner site and fronts onto the southern side of Victoria Avenue, which is a busy road. The service station building occupies a broadly central position within the appeal site and it includes a shop associated with the petrol filling station, a tyre replacement facility and a car valet facility. Whilst the car valet unit has a door at the front and back, allowing vehicles to drive through, the primary entrance to the other two units is from the front forecourt area. An accessway leads from the forecourt right around the back of the building separating it from the rear section of the site, which appears to be used for the most part as a storage area.

5. The southeastern rear corner of the site contains a steel container on top of which some tyres are stored; there is an adjacent portacabin alongside the eastern site boundary, as well as a small screened area to the west of the steel

container. These facilities occupy the site of the proposed building, which would comprise a block of three industrial units, each with toilet facilities and associated parking space. The sections of the eastern and southern boundaries of the appeal site adjacent to the proposed building adjoin the small rear gardens of a number of houses that front onto Northdale Road. Most, but not all, of the rear boundaries of these properties are enclosed by concrete panel fencing.

6. A noise report provided by the appellants has been prepared on the basis that the proposed units would be used for valet services and the storage of tyres, but no tyre fitting operations would be undertaken in the new units. However, this does not accurately reflect the scheme identified on the planning application form, which identifies that tyre replacement and repairs would be carried out. I have not been provided with any evidence to show that this aspect of the proposal was revised and agreed with the Council while the application was with it for consideration. The Council's appeal submissions indicate that it determined the application on the basis of the scheme set out on the planning application form and under the circumstances this is also the basis upon which I have determined the appeal.

7. The planning application form identifies that the plant installed would include water cleaning equipment and pneumatic equipment for removing and refitting car wheels. The noise report takes account of the likely impact of the use of vacuum cleaners, which were identified as the noisiest piece of equipment used in the existing vehicle valet operation and I see no reason to dispute that the levels of noise associated with the storage and retrieval of tyres was generally inaudible over background noise levels during the survey of existing operations. Nevertheless, it takes no account of the use of pneumatic equipment in tyre replacement/repair operations. In my experience equipment of this type is often used to remove/replace wheel nuts and makes a distinctive noise of not insignificant volume.

8. The main entrance to each of the proposed units would comprise a large roller shuttered doorway in the northern elevation of the building. However, the gables of the outer two units and the rear wall of the middle unit would also each include a single doorway containing a wooden door. The noise assessment appears to take account of the noise insulation values of these wooden doors and the proposed walling material in calculations regarding the levels of noise likely to be experienced by residents of neighbouring dwellings. Although the nearest houses to the main entrances of the units are identified as Nos. 6 and 26 Northdale Road, the wooden doors I have identified would be close to the appeal site boundary and a number of other neighbouring dwellings. Furthermore, I consider that in the warmer summer months of the year, when neighbouring residents are also more likely to be using their gardens, it is likely that the wooden doors, rather than remaining closed and providing sound insulation, would be left open to facilitate the ventilation of the units.

9. It appears to me that the assumptions upon which the noise assessment is based do not fully reflect the range of proposed appeal site activities or the likely practices which would be most likely to result in the disturbance of neighbouring residents. I consider it is likely that the noise resulting from the

proposed development would be greater than suggested by the findings of the noise report and so I give its conclusions little weight.

10. I agree with the Council that the provision of additional work units on the site would be likely to lead to an increase in the number of visitors to it. Even if this were not the case, the proposal would be likely to result in the displacement of vehicles from the existing units to the proposed facilities, which are closer to neighbouring houses, and there would be an associated increase in noise close to the rear boundary of No. 6, as they manoeuvre in and out of the units. As well as operating between 08:00 hrs and 17:00 hrs Monday to Friday, the proposed units would be open from 08:00 hrs to 16:00 hrs on Saturday and 09:00 hrs to 14:00 hrs on Sunday when, to my mind, neighbouring residents are more likely to be at home. In my judgement, the noise associated with activity within the proposed units as well as the related comings and goings of vehicles would be likely to result in a significant increase in the levels of noise and disturbance experienced by the residents of neighbouring dwellings. Furthermore, I am not satisfied that through the imposition of reasonable conditions it would be practical to reduce noise arising from the proposal to an acceptable level.

11. There is planting in neighbouring gardens alongside the sections of the eastern and southern boundaries of the site that are close to its southeastern corner. To my mind this planting would soften the appearance of the proposal when seen from neighbouring dwellings and as a result the proposed single-storey building would be unlikely to appear overdominant. Whilst I understand that this planting is not formally protected, I see no reason to believe that the residents whose gardens it is in would be likely to remove it, as this would increase the prominence of the service station to the rear of their properties. In my judgement, the effect of the proposal on the outlook of neighbouring residents would be acceptable and in this respect it would accord with MP[1] Policy I3.1.

12. Nonetheless, I conclude that, whilst the effect of the proposal on outlook would be acceptable in accordance with MP Policy I3.1, on balance it would be likely to unacceptably harm the living conditions of neighbouring residents, with particular reference to noise and disturbance, contrary to MP Policies H2.2 and DC26.3 as well as RSS[2] Policy DP2.

13. I have considered all of the other matters raised. Although the appellants have suggested that the proposed development would meet a need for affordable workshop accommodation for small business enterprises in the area, I have not been provided with any evidence to show that there is a formally established need of this type.

14. Whilst I note the concerns of the appellants regarding the Council handling of their planning application, they do not alter the planning merits of the case upon which my decision must be based.

15. I recognise that the proposed building, which would be situated in an accessible location, would be likely to have a more attractive appearance than the existing storage area. Whilst the proposal may make it easier for the appellants to

[1] The Manchester Plan, 1995.
[2] The North West of England Plan Regional Spatial Strategy to 2021, 2008.

ensure that the existing forecourt uses operate together in a safe manner, in my view, neither these benefits nor any other matters raised outweigh the considerations which have led to my conclusion on the main issue.

16. For the reasons given above I conclude that the appeal should be dismissed.

Ian D Jenkins

INSPECTOR