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## Appeal Decision

Site visit made on 13 November 2018

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> November 2018**

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**Appeal Ref: APP/F4410/W/18/3207029**

**Broadway Garage, Broadway, Dunscroft, Doncaster DN7 4HU**

- 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 T Jackson against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 18/00810/COU, dated 29 March 2018, was refused by notice dated 11 July 2018.
  - The development proposed is described as a 'change of use from jet wash to hand car wash.'
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr T Jackson against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered which also appears on the decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
4. The appellant has questioned whether the proposal requires planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
5. During the course of the appeal, the revised National Planning Policy Framework (Framework) has been published. The appellant and the Council have had the opportunity to comment on this matter. Hence, I have considered the appeal on this basis.

## **Main Issue**

6. The main issue is the effect of the proposal on the living conditions of the occupiers of the neighbouring residential properties on Harpenden Drive, Broadway and Broadwater Drive, by way of noise and disturbance.

## **Reasons**

7. The appeal site is used as a garage for the servicing and the repairing of vehicles, and for the dispensing of fuel. To the side of the main garage building is an automatic car wash, and to the rear there is a screened jet wash area and vacuuming facilities. The remaining parts of the site are mainly hardstanding areas used for vehicular circulation and parking, and these also separate the facilities away from most of the site boundaries.
8. The site lies on the corner of Broadway and Broadwater Drive, with Harpenden Drive found to the rear nearest to where the proposal would be located on the site. The prevailing use in the area is residential. The side and rear garden areas of a number of properties directly abut the rear boundary of the site with the associated dwellings set back a fairly modest distance. A short terrace of properties on Broadway also lies in close proximity to the site, whilst further properties on this road and Broadwater Drive are separated from the site by the respective roadways. Broadway is a relatively well trafficked route.
9. With the proximity to residential properties and its location in a predominantly residential area, there is the potential for the proposal to cause noise and disturbance because it would introduce a hand car wash facility to the site that would involve vehicles going through a number of different stages. As such, and at the request of the Council during the course of the planning application, the appellant submitted a noise impact assessment (NIA). It assesses noise levels generated by activities within the site with regard to the guidance and criteria in British Standard 4142:2014 and its initial finding states there would be a significant adverse impact. Although there is a dispute between the appellant and the Council over the dB correction in the NIA to reflect the characteristics of the noise, in any event, the correction would still result in this level of impact.
10. The context of the site also needs to be considered. Whilst the site already operates as a car wash facility, there are no restrictions over the hours of use, and there would also be noise from traffic on Broadway, as I have set out, this is a residential area. The proposed block plan shows that activities on the site would be taking place in closer proximity to residential properties, in particular valeting activities adjacent to the boundary with those on Harpenden Drive than is currently evident on the site. More broadly, the proposal would increase the use of the site nearer the neighbouring residential properties, and this includes vehicle queueing and circulation.
11. The Planning Practice Guidance also recognises that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. With the greater proximity of activities, this will increase the potential for the occupiers of the nearby properties to experience the noise and disturbance even though the activities would only relate to daytime periods. The nature of a hand car wash facility is a number of people attending to the customer's vehicles and carrying out varying activities, and so

- there would also be sources of noise and disturbance that would be apparent to the occupiers of these properties that are not currently evident from the site.
12. Concerning the removal of the automatic car wash and whilst it is located on the side of the site nearest to the properties on Broadway, I do not have the evidence before me that adequately establishes that it generates higher noise levels than the proposal, beyond assumptions on its noise levels. The attributes of the noise from a hand car wash use would also be markedly different. I am unable to conclude that the removal would satisfactorily offset the additional noise and disturbance.
  13. In relation to the noise mitigation measures that have been outlined, a number of these would be dependent on the activities of customers, and so I am not convinced these would be necessarily effective. There are limited details of what the acoustic fencing would entail, particularly in relation to whether this would be acceptable in character and appearance terms, or how sand reducing enclosures would be effective. The use of a planning condition concerning a noise management plan detailing such measures would not, therefore, adequately allay my concerns without having the potential to nullify a planning permission, if I was minded to allow the appeal.
  14. Hence, I cannot agree that the proposal would, in practice, result in a reduction in noise compared to the existing use, nor that it would be either be no worse or better environmentally. In addition, a lack of noise complaints in relation to the site would not account for the adverse effects from the proposal.
  15. When the site context and the proposed mitigation are considered, in my view, they would not alter that a significant adverse impact would be likely to occur. Both the Framework and the Noise Policy Statement for England (2010) state that new development should avoid noise giving rise to significant adverse impacts on health and the quality of life.
  16. I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of the neighbouring residential properties on Harpenden Drive, Broadway and Broadwater Drive, by way of noise and disturbance. As such, it would not comply with Policies CS1 and CS14 of the Doncaster Metropolitan Borough Council, Core Strategy 2011-2028 (2012) where they seek that proposals should protect local amenity and that new development should have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment.
  17. The proposal would also not comply with 'Saved' Policy PH12 of the Doncaster Unitary Development Plan (1998) which states that the extension of non-residential uses of appropriate scale will be permitted provided the use would not cause unacceptable loss of residential amenity through, amongst other matters, noise.

### **Other Matters**

18. In relation to spray, the proposed washing areas do not appear to be closer to the neighbouring residential properties than the existing, assuming the valeting area would only be used for that purpose. Thus, the potential for spray would not cause further undue harm to the living conditions of the occupiers of the neighbouring residential properties, over and above the concerns that I have set out in relation to noise.

19. The proposal would provide some additional economic benefits through paying customers and employment, although this would not outweigh the harm caused by way of the noise and disturbance.
20. Matters in relation to the timing of the request of the Council for the NIA are not for my consideration. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have, therefore, not had a significant bearing on my decision.

**Conclusion**

21. For the reasons set out above, and having regard to all matters that have been raised, the appeal should be dismissed.

*Darren Hendley*

INSPECTOR