

| | |
|----------------------------------|---|
| Planning Committee Report | |
| Planning Ref: | FUL/2020/0947 |
| Site: | 55 Tanners Lane |
| Ward: | Westwood |
| Proposal: | Use of the site for vehicle repair (retrospective application) and one additional MOT bay (proposed). |
| Case Officer: | Shamim Chowdhury |

SUMMARY

The planning application seeks to retain the existing garage/car repair and proposes to add an MOT bay within the existing garage. The site has been a car sales/showroom since 1965, but despite a condition that prevented car repairs from the site, over the years the site has established itself as a car repair place in conjunction with the car sales use.

The current garage/car repair use is not compatible with the nearby residential development, the proposed additional MOT bay within the current use would intensify the use of the site further and at the same time would generate increased noise in association with MOT testing. A noise assessment has been submitted to address and mitigate against unacceptable noise issues, however, it is considered that the noise assessment and mitigation measures are not adequate to ensure that the residential amenities and the living conditions of the neighbouring occupiers would not be adversely affected. The application site is very close to houses within a quiet residential area and due to insufficient information being submitted to address the concerns surrounding noise nuisance, the proposal is considered contrary to Policies DE1, JE5 and DS3 of the Coventry Local Plan 2016 and does not fulfil the objectives of the NPPF and is therefore recommended for refusal.

BACKGROUND

It appears that the application site has a longstanding car repair/garage use. The site is with a lawful use of car sales/showroom since 1965 following a planning approval. Despite a condition that prevented car repairs from the site, over the years the site had established itself as a car repair place in conjunction with the car sales use. The planning history below provides more information on the past use of site.

KEY FACTS

| | |
|--|---|
| Reason for report to committee: | More than 5 representations have been received against the officer's recommendation |
| Current use of site: | Car repair/garage and car sales |
| Proposed use of site: | Car repair/garage with MOT and car sales |

RECOMMENDATION

Planning committee are recommended to refuse planning permission for the reason(s) listed within the report.

REASON FOR DECISION

- The proposal is not acceptable in principle.
- The proposal will adversely impact upon the amenity of neighbours.
- The proposal fails to accord with Policies: DE1, DS3 and JE5 of the Coventry Local Plan 2016, together with the aims of the NPPF.

BACKGROUND

APPLICATION PROPOSAL

The planning application seeks permission to retain the existing car repair use and to add a MOT bay. The hours of operation of the garage will be Monday to Friday from 08:00 to 18:00 and Saturday from 09:00 to 17:00, with the proposed MOT operation being Monday to Friday from 09:00 to 17:00 and on Saturday from 09:00 to 16:00.

SITE DESCRIPTION

The application site comprises of a single storey building on a rectangular plot of land on the southeast corner of Tanners Lane and Nailcote Avenue. There are two distinctive parts to the building on site, one is mainly a glazed structure with flat roof above for the car sales and display, and the other part is higher with a metal pitched roof above for car repair/garage purposes. The application site is in an area which is wholly residential with a semi-rural character. The application site is surrounded by residential houses, in particular No. 1 Nailcote Avenue and No. 53 Tanners Lane share the boundary with the application site.

PLANNING HISTORY

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

| Application Number | Description of Development | Decision and Date |
|--------------------|---|---|
| S/2005/4350 | Extensions to existing building for use as showroom, office and service bay. This permission was restricted by a condition: "That no vehicle repair shall be carried out within any building or within the curtilage of the site of the petrol filling station other than such repairs as could be carried out in any residential area without detriment to the amenities of that area, by reason of noise, vibration, smell, fumes, soot, ash dust or grit". | approved 27/08/1965 |
| S/1984/0975 | Use of forecourt as car sales area. A condition restricted vehicles park, store or display for sale in the open area of the site. | approved 05/09/1984 |
| S/1901/3787 | Use of forecourt for display of cars for sale; Enforcement Notice for breach of planning condition served on 31 March 1993 related to the above conditions | Enforcement Notice 31/03/1993 |
| S/1901/3479 | Removal of condition 3 & 4 of planning application ref. G/C/21388/B (S/1901/3787); condition 3 and 4 were: 3. That no vehicle hire, lease or rental business shall be conducted from these premises and no such vehicles shall be operated from, parked or stored on any part of the premises that subject of this permission. 4. That no work on motor vehicles shall be carried out in the open on any part of the site the subject of this permission. | refused and appeal dismissed 17/12/1987; |

| | | |
|--|---|--|
| | Inspector found that the car hire and repair activities would have harmed the neighbouring residential amenities. | |
|--|---|--|

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF in paragraph 127 states that the planning decisions should ensure that developments will function well and add to the overall quality of the area and establish or maintain a strong sense of place.

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

Local Policy Guidance

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6th December 2017. Relevant policy relating to this application is:

Policy DS3: Sustainable Development Policy

Policy DE1: Ensuring High Quality Design

Policy JE5: Location of R&D, Industrial and Storage/Distribution Development

Policy AC2: Road Network

Policy AC3: Demand Management

Supplementary Planning Guidance/ Documents (SPG/ SPD):

SPD Delivering a More Sustainable City

SPD Coventry Connected

CONSULTATION

No objections subject to conditions have been received from:

- Highways

Objections have been received from:

- Environmental Protection

Immediate neighbours and local councillors have been notified; a site notice was posted on 12 May 2020.

5 letters of objection have been received, raising the following material planning considerations:

- a) Parking and road safety
- b) Noise and disturbance
- c) Addition of MOT would make current parking situation worse
- d) Small car repair place should not be extended for MOT in a residential area
- e) Air pollution caused by vehicles constantly revving and idling during the MOT

18 letters of support have been received, raising the following material planning considerations:

- f) Support a local business and retain employment opportunity.

- g) The garage does not produce significant noise and disturbance to affect the neighbouring residents.

Within the letters received the following non-material planning considerations were raised, these cannot be given due consideration in the planning process:

- h) The current garage owner provides an excellent customer service and has good relationship with the neighbouring residents
- i) if approval is not given it makes way for another business to operate from the premises and could attract more vehicles.

Any further comments received will be reported within late representations.

APPRAISAL

The main issues in determining this application are principle of development, the impact upon neighbouring amenity and highway considerations.

Principle of development

The most relevant Development Plan Policy is JE5 in this case. Policy JE5 states that proposals for new R&D, industrial and storage/distribution development (including changes of use and the expansion of existing operations) will be permitted provided that they are:

- a) Accessible by a choice of means of transport or will be made accessible by a choice of means of transport as a consequence of planning permission being granted for the development; and
- b) Have good access to a primary route on the highway network and an acceptable impact on the capacity of that network; and
- c) The proposal would not significantly compromise the viability or deliverability of land allocated in this Plan for employment development; and
- d) The development is compatible with other Plan Policies.

In addition to the above, proposals for new general industrial and storage/distribution development (including changes of use and the expansion of existing operations) will also be required to demonstrate that the proposed development would not result in significant harm to the amenities of persons occupying nearby residential property or other land occupied by uses sensitive to environmental pollution.

Policy DE1 of the Local Plan seeks to ensure high quality design and development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area.

The National Planning Policy Framework, paragraph 127 states that "Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The garage/car repair and car sales use of this site is not compatible with the nearby use, which is wholly residential. The car sales (sui generis) on this site was approved in 1965 subject to strict conditions to ensure that the surrounding neighbouring amenities are not affected by any unacceptable noise and disturbance. However, the current garage/car repair use is longstanding and is immune from enforcement action.

It is important to reuse buildings within the urban environment where possible; however, the uses must be compatible with their surroundings. It is evident from the planning history of

the site and planning conditions that were considered necessary on the previous decisions that the site is sensitive and as such any industrial style activity could potentially have a harmful impact on the area. The planning history/appeal decision suggests that car repair/car hire use on this site is unacceptable due to its close proximity to residential houses and is therefore unacceptable in principle.

Impact on residential amenity

Policy DS3 of the Local Plan 2016 states that the Council will take a positive approach in considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions to enable proposals to be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area, including increased health, wellbeing and quality of life.

Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. The Planning system should ensure that wherever practicable, noise sensitive developments are separated from major sources of noise, and that new development involving noisy activities should, if possible, be sited away from noise sensitive land uses. Where it is not possible to achieve such separation of land uses, officers need to consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise using conditions.

Due to the proximity of neighbouring residential occupiers to the application site, specific environmental matters need to be very carefully considered and be fully addressed. These would cover noise pollution from the proposed MOT use as well as highway safety.

Whilst the applicant explains that there would only be several minutes of engines running per vehicle MOT test, as a business this would happen regularly throughout the day. It is highly unlikely that the openings in the building will be closed throughout testing and therefore consideration must be given to the noise pollution that will be emitted from the building. The noise assessment submitted does not provide specific details of mitigation measures to demonstrate how sound reduction levels would be achieved, nor does it consider noise transmission into neighbouring properties. A noise management plan has also been submitted in accordance with the noise report which proposed some measures to control noise nuisance. However, the measures to control noise nuisance in the noise management plan are not considered to be sufficiently robust – mitigation will only be installed if concerns or complaints arise, which is contradictory to the recommendation of the noise report.

Noise pollution is not only caused by running engines. The noise associated with a MOT test centre (with associated vehicle repairs) also comes from general comings and goings to the premises, car doors opening and shutting, power operated machinery, horns, reversing beepers, metal on metal work and other associated mechanical related noises. All of which will have an impact on neighbour amenity. It is reasonable to expect that the proposed addition of MOT within the current use would intensify the use of the site further and at the same time would generate increased noise in association with the testing. The noise assessment is to address and mitigate unacceptable noise issues, however, so far it appears that the existing garage and the proposed MOT facility is so close to the residential amenities that the mitigation measures suggested will not protect nearby occupiers from increased noise which would be severely detrimental to the living conditions of the neighbouring occupiers. Environmental Protection considers that the proposed MOT activity

is likely to cause a noise nuisance and adverse impact on quality of life and health as there are surrounding residential properties in close proximity.

During processing this application, it was agreed that time for consideration of the application be extended for determination to allow additional information regarding noise for further assessment to be submitted and carried out. Environmental Protection have acknowledged that the current car repair/garage use is longstanding and has limited impact on the neighbouring impact. In addition, it is evident from residents' comments that they are used to the current garage use on this site.

The introduction of MOT facilities is likely to generate significantly more noise than the current car repair and car sales use, due to the use of air compressors, air tools and the revving of engines during emissions test. The applicant attempted to address the issues raised by Environmental Protection and also submitted a noise report to support the scheme. However, Environmental Protection are not satisfied with the noise report as insufficient information has been provided to demonstrate that the potential noise impact from proposed MOT activities can be mitigated to a level that would be acceptable.

The proposed MOT use is not compatible within the surrounding uses which is wholly residential within a semi-rural character. Given the proximity to residential properties and the potential for a harmful adverse impact which would be created by the proposed MOT facility, and the failure to demonstrate that the proposal would not result in unacceptable harm to the living conditions of the neighbouring occupiers, it is considered that the proposal would be contrary to the Coventry Local Plan Policies JE5, DE1 and DS3 and would not fulfil the aspirations of the NPPF.

The economic benefit of the proposal must be weighed against the impact of the development on adjacent residential amenity. Due to the proximity of residential properties this is a sensitive site that requires a comprehensive assessment of the proposed use in order to determine whether it would be acceptable in this location because of noise. The submitted information is insufficient to address concerns regarding the likely noise nuisance that would occur and the likelihood of noise complaints. The proposed addition of a MOT facility would not bring a significant level of public benefit and therefore the economic benefit would not outweigh the harm that would be caused by the proposed MOT use.

Highway considerations

The submitted plans show that the site has 5 off-street parking spaces in the forecourt for the garage and MOT purpose. During the site visit it was observed that a number of cars parked very compactly on the courtyard at the corner of Tanners Lane and Nailcote Avenue and they appear related to the car sales. The agent indicated that the car sales use would be reduced in order to allow the running of the MOT facility and garage with only two spaces allocated to car sales which would be located along the eastern boundary.

The car sales use is lawful on this site and a condition to cease or reduce its operation is not reasonable nor enforceable, as such the proposed reduction of car sales to allow MOT testing cannot be controlled effectively. There is the potential, due to all three uses on this small site and the lack of off-street parking for customers and staff that additional parking on the street or pavement could occur, resulting in pressure for on street parking, in particular in the immediate vicinity of the site around Tanners Lane and Nailcote Avenue junction. However, highways consider that the parking arrangement on site is satisfactory and the impacts of the development will not be severe, therefore raised no objection. However, they

recommended conditions to secure car parking spaces and manoeuvring space and cycle storage.

Equality Implications

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application. There are no known equality implications arising directly from this development.

Conclusion

The proposed development is considered to be unacceptable in principle and is likely to cause harmful noise nuisance and adverse impact to the quality of life of neighbouring residential occupiers. The proposed development is contrary to Policies DE1, JE5 and DS3 of the Coventry Local Plan 2016 and does not fulfil the objectives of the NPPF.

CONDITIONS:/REASON

The proposed MOT activity is likely to have an adverse impact on the quiet enjoyment and quality of life of the occupiers of surrounding residential properties due to harmful noise nuisance being emitted from the premises, as such the proposed facility in association with vehicle repairs would result in significant harm to the living conditions and wellbeing of the occupiers of nearby residential properties, and is therefore contrary to Policies DE1, JE5 and DS3 of the Coventry Local Plan 2016 and the overriding principles of the NPPF.

