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# Appeal Decision

Hearing held on 26 March 2013

Site visit made on 26 March 2013

**by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS**

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

**Decision date: 2 May 2013**

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**Appeal Ref: APP/Z0116/C/12/2183376**

**137 Parson Street, Bristol BS3 5RB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr D Baldock against an enforcement notice issued by Bristol City Council.
  - The Council's reference is 11/30341/COU.
  - The notice was issued on 8 August 2012.
  - The breach of planning control as alleged in the notice is the unauthorised change of use of the land from a haulage yard to that of a car park.
  - The requirements of the notice are cease the use of the land as a car park.
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) & (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is to be considered in conjunction with ground (a).
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## Procedural Matters

### *Enforcement Notice*

1. The notice relates to the land behind 135 and 137 Parson Street and does not include the dwellings. It therefore is reasonable that the address should be amended to 'Land to the rear of 135 and 137 Parson Street, Bristol BS3 5RB'.
2. The appellant identifies two of the workshop buildings that are now used for car valeting and storage of cars related to the valeting, and questions whether these should be included in the notice. The council notes that the website makes it clear that valeting is part of the service offered to airport parking customers and this is confirmed by a notice visible from within the site. There is no on-site advertising to identify the valeting service from outside of the site. In my view, it is a service ancillary to the airport parking and therefore these buildings should be included within the notice.
3. The office building is used in relation to airport parking. It is also used by Mr Taylor in association with the past haulage use at the site and part of the office is currently unused. While this is the case there is no physical subdivision of the various uses within the building as there is a degree of sharing of common parts, such as the entrance and some facilities. In my view, it is not reasonable or practical to distinguish physically or functionally between the different users of the offices.
4. Similarly, I acknowledge that there is some shared use of the car park between the users of the office building and residential users of 135 and 137 Parson

Street (135 parking occurs on the hardstanding and within a double garage building), but again with little physical separation, I do not consider that it is possible to physically or functionally identify the extent of the areas used for different uses. In my view, there is a composite use occurring at the site that includes the original haulage use, some limited residential parking related to 135 and 137 (including garage behind) and the airport parking. I therefore conclude that the allegation should be amended to take account of these other uses at the appeal site and propose that the allegation should be amended to 'the unauthorised change of use of the land from a haulage yard and residential use to that of a haulage yard, residential use and use as a car park'. This was discussed at the hearing and I do not consider that there would be injustice to any party related to the change.

## **Decision**

5. I direct that the enforcement notice be corrected by deletion of '137 Parson Street' as the land affected and substituted with 'Land behind 135 and 137 Parson Street', and by deletion of the allegation and substitution with 'the unauthorised change of use of the land from a haulage yard and residential use to that of a haulage yard, residential use and use as a car park'. Subject to these corrections the appeal is dismissed and 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.

## **Reasons**

### ***Ground (a) and Deemed Planning Application***

#### **Main Issues**

6. I consider that the main issues in the ground (a) appeal are:
  - The effect of the development in relation to sustainability, with particular reference to Bristol Airport.
  - The effect of the use on neighbouring occupiers, with particular reference to noise and disturbance.

#### ***Sustainability***

7. The Core Strategy identifies an over arching issue as ensuring sustainable development. The National Planning Policy Framework (The Framework) indicates a main aim of achieving sustainable development, including mitigating and adapting to climate change and moving to a low carbon economy. Building a strong, responsive and competitive economy is also part of sustainability and is supported locally by Bristol Development Framework Core Strategy [CS] Policies BCS1 and BCS8.
8. The Framework notes that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It notes that local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development. This includes large scale facilities such as transport investment necessary to support strategies for the growth of airports or other major generators of travel demand in the area. It notes that all development that generates significant

amounts of movement should be supported by a Transport Statement or Transport Assessment. It also notes that plans and decisions should ensure development that generates significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, with travel plans as key tools.

9. CS Policy BCS10 notes that the council will support the delivery of significant improvements to transport infrastructure projects to provide an integrated transport system. The policy refers to the Joint Local Transport Plan, but makes no specific reference to airport parking or the Bristol Airport Surface Access Strategy 2012-2016. The Government has recently published the Aviation Policy Framework. This, amongst other things, notes that the government attaches a high priority to effective public involvement in local transport policy and promotes the development of surface access strategies, including the need to identify short and long term targets for increasing the proportion of journeys made to airports by public transport. The Bristol Airport strategy has been the subject of much consultation.
10. I acknowledge that the weight afforded to a development plan is not attached to the Bristol Airport Surface Access Strategy. However, the CS promotes sustainable development, which accords with the aims and objectives of The Framework and general aims of the Aviation Policy Framework. As the Framework and Aviation Policy Strategy look to the provision of Transport Assessments and Surface Access Strategies, I consider the Bristol Surface Access Strategy to be a relevant material consideration and attach weight to its aims and objectives. I have noted North Somerset Replacement Local Plan Policy T/12, but as this does not cover the area of the appeal site I have not attached weight to it.
11. The aim at Bristol Airport is to increase the public transport proportion of passenger journeys to 15%. Part of this strategy is to control parking, with a key factor being the use of on-airport car parks in preference to off-airport car parks, where price can be controlled to influence modal transport choice. The provision of off-site third party car parks where price is not controlled will inevitably impact on the ability of the Airport to influence mode of transport choice, if the price control mechanism can be avoided. Off site operators are likely to be more competitive by having lower prices than at the airport, as is the case in relation to this appeal. This will clearly and directly undermine the aims of the Surface Access Strategy and cause considerable harm in terms of sustainability, conflicting with the general aims of the core strategy and The Framework to achieve sustainable development.
12. The parking system used by the appellant will also result in some extra journeys, assuming those now using this car park would use facilities at the Airport. Those arriving at the airport from the south west would pass the airport to continue to the appeal site and then be transferred back to the airport in the general direction they have just come from. Those using the 'meet and greet' system could generate up to four journeys between the airport and appeal site. Those from the north would park before getting to the airport and then be transferred to the airport. This potentially generates an extra return journey from the airport at arrival and departure. However, in both meet and greet and in transferring people from the appeal site, use of minibuses would combine journeys for some passengers arriving at a similar

time, and if used efficiently could reduce additional journeys that would occur, particularly for those arriving from the north and those using the meet and greet system. However, for those passengers coming from the south west there would be additions to car journeys.

13. Overall, I conclude that the appeal site would have a substantial impact on sustainability because the off site airport parking would significantly undermine the aims to increase access to the airport by public transport and the impact on sustainability is increased to a limited extent by some extra vehicle journeys between the airport and appeal site, for those coming from the south.
14. I accept that the appellant is making full use of the site and providing many jobs in an area that the council is looking to regenerate. It also accords with the aims of The Framework in terms of providing a competitive economy. However, I note that the appellant identified at the hearing, in relation to the noise issue, that there is a likely and realistic expectation of the fall back position of the haulage use of the site returning if the appeal is dismissed. This would itself be likely to provide economic activity and employment, so I attach limited weight to the economic benefits associated with the airport parking. I appreciate that it is not the role of the planning system to limit competition. However, in this situation where there is a very large generator of journeys, it is essential to have robust strategies to influence modal transport choices for reasons of sustainability. In my view, the harm to sustainability substantially outweighs the benefits of the proposal.

#### *Noise and Disturbance*

15. CS Policy BCS23 notes that development should be sited and designed in a way as to avoid adversely impacting upon the surrounding area by reason of, amongst other things, noise.
16. A number of complaints were received by the council indicating noise was emanating from the site, including shouting, wheel spinning, vehicle alarms and doors slamming at all hours. A council officer visited the site in the evening and at that time the most noticeable noise source was a fan on the adjoining print building. In addition, following the complaints, management of vehicles on the site has been changed. Cars arriving are parked near the office, away from the boundary with residential uses and not moved into the main car park until the next day. There is no recent record of complaints from neighbours, but I note that the busy periods are likely to be in the summer months.
17. The appellant has had a noise assessment undertaken that included on site measurements overnight. The monitoring position was within the site close to the location of car arrivals and the minibus route. Other noise readings of cars and lorries were also undertaken to inform the assessment. The assessment predicts that the noise levels for the car park would be less than haulage yard activity. I accept that some activity of the car park would be likely to occur at times that haulage yard activity would not, such as between 2300 and 0400. However, the noise assessment also indicates that the car parking would not in any case have a significant material effect on residential neighbours in terms of noise.
18. In my view, the change to the management of the movements of cars on site, avoiding car movements on the main part of the site, would ensure that there

would not be unacceptable noise and disturbance to neighbouring occupiers overnight. The appellant acknowledged that a proposed condition preventing car movements overnight on the main car parking area would be acceptable and to ensure the current management arrangement would continue. Given the noise assessment, previous use of the site and operation of the site, I consider that the proposal would not result in an unacceptable impact on neighbours' living conditions associated with noise and disturbance and the proposal would accord with the aims and objectives of CS Policy BCS23.

19. While I have found that the proposal would be acceptable in relation to noise and disturbance, overall, because of the substantial harm in terms of sustainability, I conclude that the appeal under ground (a) should fail and the deemed planning application refused.

***Ground (f)***

20. The appellant suggests the use of conditions to control management of the site and noise and disturbance to allow the use to continue. However, I have found the use to be unacceptable because of its impact on sustainability and I do not consider there are conditions that would overcome the harm caused in terms of sustainability. In my view, the requirements do not exceed what is necessary to remedy the breach and the appeal under ground (f) fails.

***Ground (g)***

21. I note that some clients may leave their cars at the site for some weeks and that there is some pre-booking and that dismissal of the ground (g) appeal would mean that some difficulties could result. However, while I appreciate that a longer period would enable a more gradual process of 'emptying' the site, given the substantial harm of the use in relation to sustainable transport issues, I conclude that the period for the remedy is reasonable and the appeal under ground (g) fails. Should any particular circumstances be explained to the council such as a difficulty with a particular car or perhaps cars, the council has the power, under s173A(1)(b), to extend the compliance period, whether or not the notice has taken effect.

***Graham Dudley***

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr A Penna BA Hons MA MRTPI	Director A P Planning
Mr D Baldock	Appellant
Mr M Taylor	Director George Taylor Ltd
Mr R Scarrett	Director George Taylor Ltd

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms T Connolly BA Hons MRTPI	Principal Planning Officer, Bristol City Council
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### **INTERESTED PARTIES:**

Mr A Davies BSc (Eng) MICE	Planning and Enforcement Director Bristol Airport Ltd
Mr P Downes	Head of Commercial Ground Transportation, Bristol Airport Ltd

## **DOCUMENTS**

Document	1	Notification letter
	2	Core Strategy Policies
	3	North Somerset Replacement Local Plan Policy T/12
	4	Bristol Airport Surface Access Strategy 2012-2016
	5	West of England Joint Local Transport Plan 3 2011-2026
	6	Air Quality Map
	7	Aviation Policy Framework – March 2013
	8	Letter from Mr Edgar
	9	Policy DM13
	10	Policy DM30
	11	Revised red line proposal
	12	Text to Policy BCS10