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## Appeal Decision

Site visit made on 25 May 2011

by **Kevin Ward BA (Hons) MRTPI**

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

Decision date: 10 June 2011

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**Appeal Ref: APP/H0738/A/11/2144804**

**Rear of 74-76 Dovecot Street, Stockton-on-Tees TS18 1HA**

- 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 Imtiaz Shazid against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 10/0108/COU, dated 18 January 2010, was refused by notice dated 2 December 2010.
  - The development proposed is change of use from storage area to maintenance area for Teesside Cars (Taxi Company).
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### Decision

1. I dismiss the appeal.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - a) The living conditions of the occupiers of neighbouring dwellings in terms of noise and disturbance and fumes.
  - b) Highway safety.

### Reasons

#### *Living conditions*

3. The appeal site consists of a narrow, covered structure immediately to the rear of flats at 74-76 Dovecot Street. These flats have windows facing onto the appeal site at first floor level. For much of its length, there is a gap between the roof of the structure and the surrounding walls. This includes the section leading to Palmerston Street in very close proximity to windows serving the adjacent flats.
4. The terraced houses on the end of Palmerston Street and Russell Street have blank gable ends facing the appeal site and are separated from it by an alleyway.
5. The site is close to Stockton Town Centre and there are commercial uses nearby along Dovecot Street. There is a public house on the corner of Russell Street which although currently closed would be likely to generate some noise and disturbance if re-opened, including late at night. Some noise is also generated from passing traffic and the parking of vehicles in Russell Street and Palmerston Street and the current use of the site for storage and vehicle

- parking. I accept therefore that the occupiers of the flats and the nearby terraced houses are likely to already experience a reasonable level of ambient noise.
6. However, the repair of vehicles is likely to generate additional noise and disturbance through the coming and going of vehicles, the running of engines and the use of machinery. In my view the specific form and intensity of noise would be particularly noticeable even against the background of ambient noise levels in the locality and taking into account the current use of the site. Given the physical form of the structure and the close proximity of neighbouring dwellings, particularly the flats with windows facing the site, this would be the cause of considerable disturbance.
  7. Likewise, the repair and maintenance of vehicles is likely to involve the emission of fumes, for instance from paint spraying. Given the close proximity and the physical form of the structure, it is likely that the occupiers of neighbouring dwellings, again particularly the flats, would be affected by such fumes.
  8. I find therefore that the proposed development would have an adverse effect on the living conditions of the occupiers of neighbouring dwellings in terms of noise and disturbance and fumes.
  9. I have considered the potential for conditions to make the proposal acceptable. There is no substantive evidence before me that mitigation measures could be put in place to adequately reduce or contain noise and fumes or that such measures would be viable and indeed feasible given the nature of the proposed activity and the physical form and condition of the structure.
  10. Limiting the use to taxi repairs only would not in itself overcome the adverse effects on living conditions and in any event such a condition would be extremely difficult to enforce effectively as would conditions aimed at restricting the number of vehicles using the facility or the specific activities involved. Whilst a condition to restrict operating hours would remove the potential for disturbance during the evening, the likely adverse effects during the day would be such that in themselves they justify withholding planning permission.
  11. I note that there is no evidence of complaints from the occupiers of neighbouring dwellings during the time that vehicle repairs were taking place and that there was only one objection to the planning application. However, I must also have regard to the interests of future occupiers of the properties concerned.

#### *Highway safety*

12. It appears that whilst the plans for the conversion of 74-76 Dovecot Street to flats (Ref 05/1936/COU) indicated parking provision on the appeal site, this did not form part of the planning permission. Parking restrictions are in place in surrounding streets and a resident only permit scheme is in operation on Russell Street and Palmerston Street. I see no reason to conclude that the appeal proposal would in itself displace cars onto the streets or that in any case parking restrictions would not be enforced. I am satisfied that the proposal would not have an adverse effect on highway safety therefore.

**Conclusion**

13. For the above reasons and taking account of other matters raised including the views of the Environmental Health Officer, I conclude that the appeal should be dismissed.

*Kevin Ward*

INSPECTOR