



## Appeal Decision Notice

Planning Tribunal Hearing and Site Visit held on 29<sup>th</sup> June 2012

Members: Mr. Stuart Fell (Presiding), Mr. Patrick Russell, Mr. John Weir

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**Appeal Site:** Value Rent-a-Car, La Planque Lane, Forest.

**Property Reference:** H009160006-P210A

**Planning Application Reference:** FULL/2011/2492

**Planning Application Valid Date:** 2<sup>nd</sup> August 2011

**Appeal Case Reference:** PAP/012/2012

- The Appeal is made under the provisions of Part VI and Section 70 of The Land Planning and Development (Guernsey) Law, 2005.
- The Appeal is by Value Rent-a-Car Limited against the decision of the Environment Department dated 15<sup>th</sup> March 2012 to refuse planning permission on an application to vary the terms of an earlier permission, namely to alter the terms of Condition 4 of permission Ref FULL/2010/3561 so as to extend the hours of operation to between 06.00 hours and 21.00 hours every day of the year, on land at La Planque Lane, Forest.
- The appellant company was represented by Mr. M. Finn, Mr. D. Finn, and Mrs. L. Finn.
- The Environment Department was represented by Mr. A. J. Rowles, Director of Planning Control Services, and Miss S. Stuart, Planning Officer.

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### Decision

1. The appeal is dismissed.

## Background

2. The development the subject of this appeal comprises a single-storey, metal-clad building, which is the size of a normal domestic garage, and an adjoining concrete hard-standing, which together provide the facilities for washing, cleaning and preparing returned hire cars so that they are ready for new customers arriving at the airport. The site is situated on the east side of La Planque Lane, but vehicular access is by means of a private airport service road only, which runs to the north and east of the appeal site and connects to the public highway on Rue Des Landes. To the north of the appeal site is a car park used by staff working at the adjoining ASG aircraft hanger.
3. The appeal site is located on the outer, southern edge of land dedicated to uses associated directly with the operation of the airport. To the south and west of the site, along La Planque Lane, neighbouring properties are predominantly residential, the notable exception being a car body workshop, Bodyline, which lies a little to the south-west. Immediately to the south of the appeal site and separated from it by a tall hedge is a detached bungalow known as Cairnsmore. To the west, across the lane, is a two-storey house called Roseneath. The traffic flow along the lane is one-way only, in a northerly direction.
4. When the original application for planning permission was made in October 2010 by the States Property Services, the States of Guernsey being the owner of the land, the accompanying letter explained that the operating hours of the cleaning facility would be limited to normal working hours, described as being between 09.00 to 17.30 or daylight. It also stated that the shed would be used *'for vacuuming the cars etc'*.
5. In assessing that application, the Department concluded that the proposal was compatible with relevant policy objectives, having taken account of a written objection from Mr. Bisson, the owner of Roseneath. The Department granted conditional permission in December 2010. Condition 4 restricted the hours of operation to between 9am and 5.30pm Mondays to Saturdays, stating that *'there shall be no car washing at all on Sundays and Public Holidays'*. A further condition prohibited the use of pressurised cleaning equipment. The stated reason for the imposition of both conditions was *'in the interests of amenity'*. A reading of the planning officer's report which assesses the application makes it clear that the underlying concern relates to the protection of the amenity of the neighbouring residential properties.
6. Value Rent-a-Car found that operational difficulties arose as a result of the restricted operating hours imposed by condition 4. The appellant company accordingly made a further application in August 2011 to vary the operating hours specified in Condition 4.

7. As a result of subsequent negotiations between the parties, a degree of compromise was apparently reached in respect of the weekday hours of operation. The Department indicated that it would consider hours of operation between 07.30 and 18.00. The appellant company agreed to this suggestion, but was not prepared to compromise on the question of operation on Sundays and Public Holidays. It is the resulting refusal of the application that has resulted in this appeal.

### **Main Issue**

8. From its assessment of the papers submitted by the appellant and the Department, and from what was seen and noted during the site visit, the Tribunal considers that the main issue in this case is whether the extended hours of operation that are now proposed would result in unacceptable harm to the reasonable amenity of neighbouring houses, contrary to the objectives of Policy RGEN11 of the adopted Rural Area Plan.

### **Policy Considerations**

9. Two policies within the Rural Area Plan are relevant in this case. The first is policy RE14, which deals with development requiring an airport location, and this states:

*“Notwithstanding the preceding policies of this chapter (which explain the general presumption against development in the rural area), proposals for development requiring close proximity to the airport may be permitted where the development:*

- a) remains ancillary or incidental to the operation of the airport;*
- b) would be of a scale that would not unreasonably compete with the Rural Centres or those of Town and the bridge;*
- c) would not be likely to prejudice the long-term operational needs of the airport; and,*
- d) would not be within an Area of High Landscape Quality.”*

10. During the Hearing the Department confirmed its view that the proposed development raised no conflict with the requirements of Policy RE14, particularly part a), and the Tribunal can find no reason to disagree with this assessment.
11. In refusing the application which sought to vary the restriction on operating hours, the Department relied in particular on RGEN11, which states:

*“In considering proposals for development the Department will take into account any significant impact on the reasonable enjoyment of adjoining properties, particularly in relation to overshadowing, overlooking, emissions, noise and disturbance.”*

## **The Nature of the Car Cleaning Operation**

12. At the Tribunal's request, Mr. M. Finn explained in some detail the day-to-day operation of his car-hire business, with particular emphasis on the management of the demand for cars in peak periods. A total stock of around 250 vehicles was held by the company during peak periods in the summer months. At the end of any hire period each vehicle would require cleaning and preparation so as to be available in appropriate condition for the next hire. At peak times in summer around 50 cars daily would need to be cleaned and made available for customers arriving at the airport, and these demands continued through Sundays and Public Holidays, which could be among the busiest days. The company is required by the airport authority to provide its services at all times when the airport is open, which is every day of the year except Christmas Day.
13. Because of the imposed restrictions on working hours at the present site, other arrangements are made by the company so as to guarantee the constant availability of prepared cars. This is achieved by means of an agreement with Jacksons Garage, whereby the cleaning bay at their airport premises is made available to the appellant company each morning between 7.00 a.m. and 8.00 a.m. as well as on Sundays and Public Holidays. Mr. Rowles, for the Department, in response to a question from the Tribunal, confirmed that he had no reservations about this arrangement from a planning perspective.
14. Mr. Finn explained that in the absence of this arrangement with Jackson's Garage, the company would be unable to fulfill its obligations to provide cars at all times when the airport is open. The arrangement is far from ideal, however, as the Jackson's cleaning bay is not available after 8.00am, and staff could not resume their cleaning operations at the appeal site until 9.00am, which involves a loss of valuable working time. Cleaning staff also have to move their equipment between the two sites.
15. More importantly, Mr. Finn was concerned that reliance on the Jackson's premises left the appellant company vulnerable, as the guarantee of continued access to this facility was a matter entirely beyond its control. The optimum solution to this problem would be a relaxation of the restricted operating hours at the appeal site so that all the necessary cleaning operations could be carried out there.
16. Mr. Rowles confirmed during the Hearing that there was room for negotiation on the weekday hours of operation, as indicated in paragraph 7 above. Mr. Finn's response was that this would not resolve the fundamental difficulty of the need for clean cars on Sundays and Public Holidays, as there was a continued demand for vehicles at these times.

## **The Amenity Enjoyed by the Neighbouring Houses**

17. Mr. Finn argued that because of the close proximity to operational airport premises, the prevailing ambient noise levels experienced by the occupiers of Cairnsmore and Roseneath are inevitably high. Noise generators include aircraft landing, take-off and taxiing, the activity created at the ASG hangar by its maintenance workshop and by staff arriving and departing, and the activity created at the Bodyline workshop. In this context he argued that the additional activity generated by the proposed extension hours of car cleaning would not cause an unreasonable deterioration in residential amenity, particularly given the low-key nature of the activities involved.
18. The Department took the view that the original planning permission for this use had only been granted on the basis of the limited hours that had been applied for, and that the operation on Sundays and Public Holidays would represent a serious deterioration in residential amenity, as these were the only days when the residents in question could expect to enjoy periods of relative quiet.

## **The Tribunal's Assessment**

19. During its inspection of the appeal site Mr. Finn confirmed that vehicles were normally vacuumed and washed out in the open, where there was more working space than that available in the building. The building was given over primarily to the storage of equipment and cleaning materials, and was used as a rest room and shelter. At peak times, up to four staff could be present at the site, undertaking a variety of tasks.
20. The cleaning bay consists of a concrete apron close to the building with a drain to collect water runoff. Mr. Finn explained that cars are normally vacuumed first and then washed, and that only one vehicle is normally cleaned at a time, though others might simultaneously be undergoing checking procedures.
21. Mr. Finn stated that when he had learned of a complaint from a neighbour about the noise caused by radio communication equipment, he had immediately issued earpieces to his staff to eliminate unnecessary noise.
22. During the Tribunal's visits to the gardens of the two neighbouring houses, at Roseneath and Craigsmore, Mr. Finn kindly arranged for the vacuum cleaner to be switched on and off, so that the resulting noise level could be assessed.
23. The Tribunal first visited Roseneath and saw that the east-facing frontage of the house directly overlooked the appeal site, though there was a substantial planted screen on the roadside edge of the garden. The garden next to the road appeared little used, being somewhat shaded, and the noise from the extract fans of the adjoining Bodyline workshop was very noticeable here. The garden to the north and north-west of the house was less affected by noise from the workshop.

24. The Tribunal saw that Cairnsmore has an extensive rear garden, and that the garden area immediately to the east of the house provides its primary outdoor amenity space. This was seen to be immediately adjacent to the concrete washing bay, separated from it by a distance of around 10 – 15m. The Tribunal noted that the noise of the vacuum cleaner was not especially noticeable from within the garden.
25. However, the Tribunal was mindful that these visits were carried out during the late morning on a weekday, and therefore gave careful consideration to the quality of amenity that the occupiers of these two properties might reasonably expect to enjoy on Sundays and Public Holidays, when all local commercial activity other than aircraft movements would be suspended or significantly reduced. Bearing in mind that the fringe of the airport will inevitably offer a less than ideal environment for residential property, the Tribunal concluded that in such circumstances, the relative peaceful environment experienced on Sundays and Public Holidays would provide a valuable respite for the neighbouring residents, and that the enhanced quality of amenity on these days was worthy of protection.
26. The Tribunal is appreciative of the fact that the appellant company has made some efforts to minimise the level of noise arising from the cleaning of vehicles. However, the fact remains that all the cleaning operations are now routinely carried out in the open, when the original intention had been to carry out the vacuuming and valeting within the garage, which would have contained much of the resulting noise. The present arrangements have therefore exacerbated the impact of the cleaning processes, particularly on the amenity of Cairnsmore, which lies immediately adjacent.
27. It is the Tribunal's view that some aural disturbance will inevitably result from the activities of vacuuming and washing, coupled with the opening and closing of doors and the beating of floor mats. To this will be added the sound of voices when two or three operatives are working together, having to converse over the background noise of the cleaning operations. Whilst such activity might be tolerable on weekdays, when other local commercial activity is in progress, the Tribunal's conclusion is that if such operations were to extend to Sundays and Public Holidays, this would result in an unacceptably harmful effect on the reasonable enjoyment of the two nearest houses, and particularly that of Cairnsmore. For this reason the Tribunal is unable to support this appeal.
28. In reaching this conclusion, the Tribunal has considered whether the provision of fencing around the cleaning bay would materially reduce or contain the level of noise, and has concluded that it would not.

## **Conclusion**

29. The Tribunal has considered all other matters raised in the written submissions, and seen during its site visit, and it attaches considerable weight to the commercial pressures under which the appellant company operates. However, these matters do not affect its conclusions under the provisions of Part V1 Section 69 of The Land Planning and Development (Guernsey) Law, 2005, that the Appeal is not upheld.

**Stuart Fell DipArch RIBA IHBC**

**Presiding Member**

**Date: 23<sup>rd</sup> July 2012**