

Appeal Decision

Site visit made on 23 August 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 13 September 2016

Appeal Ref: APP/K0425/C/16/3149433

202 Cressex Road, High Wycombe, Buckinghamshire HP12 4UB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Khalid Mahmood against an enforcement notice issued by Wycombe District Council.
 - The notice was issued on 21 March 2016.
 - The breach of planning control as alleged in the notice is a material change in use of the Land to a mixed use comprising residential and the storage and sale of motor vehicles.
 - The requirements of the notice are
 - 1) Cease the use of the Land for the unauthorised storage and sale of motor vehicles not associated with the residential use of the Land and
 - 2) Remove all vehicles from the Land associated with the unauthorised use.
 - The period for compliance with the requirements is 2 months
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. An application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
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Decision

1. The enforcement notice is varied by the deletion of paragraph 5(2) and its replacement with

'Remove all vehicles from the Land that are not associated with the residential use of the Land'.

2. Subject to this variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

The notice

3. The lawful residential use of the property falls within the unauthorised development before me. Therefore, I consider the second requirement should be modified to reflect the first, and only require the removal of all vehicles not associated with the residential use of the Land.

Main Issues

4. The main issues in this case are the effect of the unauthorised development on the character and appearance of the area, highway safety, the living conditions of neighbouring residents, and the supply of housing land.
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Reasons

Character and appearance

5. At the junction of Cressex Road and the A4010 are a number of retail units, hot food outlets and similar that create a distinctly commercial character due to features such as their frontages, their activity, their forecourt parking, and their retail signage. No 202, which is a large detached dwelling, is the first house on the north of Cressex Road when travelling away from the junction, and it sits between a parade on one side and residential accommodation on the other.
6. In my opinion, the character of Cressex Road changes abruptly at this point as a result of the marked difference in the appearance of the buildings and the effect of the pronounced fencing to the side of the parade. From the appeal property westwards, and in contrast to what is found around the junction, the road is of a residential nature with the streetscape dominated by dwellings and flats in established gardens and domestic curtilages.
7. When I visited there were 8 cars on the forecourt of No 202. Looking from the roundabout these were not particularly visible due to the boundary fence while from the other direction they were concealed by hedging. However, when in front of the site they could be seen through the gateway and through the railings on top of the boundary wall. From here they dominated the forecourt of the house making it crowded and cluttered, and they constituted a number of parked vehicles in excess of what is normally and reasonably associated with a residential use. Therefore, to my mind they gave the site a notable commercial character that appeared discordant in this section of Cressex Road and was significantly at odds with its residential nature and appearance.
8. In coming to this view I am aware the Appellant has suggested a condition could be imposed preventing external advertising, but no such advertising was present when I visited and yet I still found the appearance unacceptable. Moreover, he was willing for the number of cars for sale to be limited to 4 plus a space for customers but again, with 3 associated with the residential use, that would still allow the 8 on the site I saw on my visit. The Council also referred to the soft landscaping at other houses nearby contrasting with the extensive hard surfacing at this site, but that situation would be unchanged by the notice before me. It has therefore not been given significant weight.
9. Accordingly I conclude the development detracts unacceptably from the character and appearance of the area in conflict with Policy G3 in the *Wycombe District Local Plan* and Policy CS19 in the Council's *Adopted Core Strategy Development Plan Document*.

Highway safety

10. Cressex Road is a busy road that serves the south-western suburbs of High Wycombe. As it passes the appeal site the attention of eastbound drivers is focussed on the approaching roundabout, the bus stop outside No 202 and the possibility of traffic turning into and out of the forecourt parking in front of the adjacent parade.
11. Although Local Plan Policy T2 was cited, I have no reason to consider the provision of 3 spaces for residents plus a fourth for customers would not be sufficient.

12. However, the Appellant said that the parking of 8 vehicles on the site allowed cars to turn on the forecourt, but there is nothing to demonstrate that and based on my observations and the details on the submitted layout plan, that is most unlikely. Consequently, in my opinion it is probable that cars have to reverse on to or off the highway, thereby conflicting with the free movement of traffic at this busy location. Given the regularity with which this could occur and the character of this stretch of Cressex Road, the adverse effect of such manoeuvres is severe.
13. The Appellant has suggested conditions to require customers to be by appointment only and to prevent parking on the road outside. However, I am unclear as to how the former would operate or the effect it would have, while parking restrictions are now in place outside the site in any event. These conditions would therefore not allay my concerns.
14. Accordingly I conclude the development has a severe effect on highway safety, in conflict with Policy CS20 in the Core Strategy and the *National Planning Policy Framework* (the Framework).

Living conditions

15. Residential accommodation is to the west of No 202 while a flat is above the parade, and I anticipate that the residents of these properties can hear activity on the appeal site. However, the Appellant raised no specific objections to a suggested condition restricting activity to between 0900h and 1900h on Mondays to Saturdays only, and I consider these would not be unsociable hours of operation. Furthermore, despite the residential character of Cressex Road I accept there is already a significant amount of noise from the passing traffic, while the flat no doubt experiences noise disturbance from the cars manoeuvring on the forecourt in front.
16. Taking these factors together I conclude that, with the suggested condition relating to the hours of operation, the development would not give rise to unacceptable noise and disturbance for the adjacent residents and so would not unreasonably harm the living conditions they enjoy. As such, it would not conflict with Local Plan Policies G8 or G15.

Loss of housing land

17. Currently the lawful use of the site is as a dwelling, and so the car sales on the forecourt could be argued to be on land used for residential purposes. However, the amount of living accommodation at No 202 has not been materially diminished by the use, and the occupation of the house could be linked to the car sales business. There is also nothing to show that a second residential unit on the site would be introduced if the car sales ceased, and so I find the scheme is not affecting the supply of housing land.
18. Accordingly I conclude this development has not adversely affected the supply of housing in the District, and so any conflict with Local Plan Policy H10 does not offer a basis to resist the scheme.

Other matters

19. I appreciate that the Government is seeking to promote economic development and this business is the livelihood of the Appellant's family. However, when the

Framework is read as a whole I find that any benefits resulting from these do not outweigh the harm identified

Conclusions

20. Accordingly, in the light of the harm identified to the character and appearance of the area and to highway safety, I conclude that the appeal should be dismissed. The enforcement notice is therefore upheld as varied, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

J P Sargent

INSPECTOR