

Appeal Decision

Site visit made on 6 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 23 September 2016

Appeal Ref: APP/A3010/W/16/3153321

41A George Street, Worksop, Nottinghamshire S80 1QL

- 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 Vincent Elliott (Holdings) Ltd against the decision of Bassetlaw District Council.
 - The application Ref 15/01520/COU, dated 30 November 2015, was refused by notice dated 19 January 2016.
 - The development proposed is the change of use from storage/offices to motor vehicle repair garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has stated that the description of development is incorrect and this appears to stem from diverging views as to the existing lawful use of the appeal property. However, it is not for me, under a section 78 appeal, to determine the lawful use of the site. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act and the outcome of this appeal under s78 does not affect the issuing of such a determination. The Council determined the appeal on the basis of the description of development contained within the application form and accordingly, my decision is based on that description.
3. Both parties have confirmed that the decision notice incorrectly identifies the name of the applicant and that the appeal has been submitted by the applicant named on the planning application form.
4. Based on the evidence before me it is clear that the change of use has commenced and I have dealt with the appeal on this basis.

Main Issues

5. The main issues are the effect of the proposal on:-
 - Highway safety; and
 - The living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance.
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Reasons

Highway safety

6. The appeal property is a single storey garage that fronts onto George Street which is one-way to traffic and predominantly residential in character. The rear elevation of the garage adjoins a commercial property on Carlton Road which is also owned by the appellant. Carlton Road is characterised by predominantly commercial uses. The garage was not in use at the time of my site visit.
7. George Street has densely developed, traditional housing in close proximity to the road and the majority of dwellings have no off-street parking provision. There are double yellow lines restricting waiting on one side of George Street and parking on the other side is for residents only between the hours of 8am and 6pm.
8. I note that there are 2 staff who presently work at the site and that 1 lives in close proximity to the site and currently walks to work. The appellant states that the other employee currently parks within the forecourt of the site. However, taking into account the confines of the forecourt a vehicle parked within it would block access and egress to the garage doors or it would be parked partially on the pavement. As such there is no off-street space for deliveries or parking within the appeal site other than within the garage itself. As such the development is reliant on customers and staff finding alternative parking off site in the immediate locality or arriving by public transport and deliveries being from the roadside.
9. I acknowledge that parking facilities are available at the appellants' premises on Carlton Road. However, taking into account the one-way system in place and the time taken to drive/walk between the sites this is unlikely to be utilised on a regular basis. I have no evidence before me to indicate that internal access is possible between the sites.
10. 12 letters of representation against the development were received to the original application from residents of George Street. The residents and the Highway Authority have stated that there is no capacity for on-street parking due to the amount of existing on-street parking. At my site visit I noted that there is a high demand for on-street parking spaces with very little space available on George Street for parking. I consider that levels of parking in the evening and on weekends when residents return from work is likely to be higher and as a result George Street would be congested with parked cars on a regular basis.
11. I note that approximately one vehicle per day is repaired at the site. However, the use of the garage for motor vehicle repairs appears to have increased parking demand and congestion which has, given the sensitivity of this location in terms of existing parking, resulted in vehicles parking on the pavement causing pedestrians to walk in the carriageway and double parking which obstructs George Street.
12. Evidence of this is provided by the significant number of objections from local residents to the scheme, a number of who live in close proximity to the appeal site. Objections to the appeal scheme regarding the intensity of the appeal development and how this results in increased parking demand is a common theme within these representations. I consider that this increase in parking

demand is likely to result in further obstructive and potentially dangerous parking in George Street.

13. There is insufficient room within the appeal site to turn a vehicle and as such vehicles may reverse out of the garage on to the carriageway. However, taking into account the restricted width of George Street due to the on-street parking I consider that any vehicles would be moving at a relatively slow speed. Furthermore, there are domestic garages that are similar in siting within the vicinity. As such I do not consider that the manoeuvring of vehicles would adversely affect highway safety. However, a lack of harm in this respect is a neutral consideration and does not outweigh the harm that I have identified above.
14. I conclude that the development does adversely affect highway safety and as such it does not comply with Policy DM4 of the Bassetlaw Local Development Framework (the LDF) which, amongst other things, seeks new development that is not to the detriment of highway safety.

Living conditions

15. Even though the site is close to Carlton Road which is characterised by commercial uses I noted at my site visit that there is a low level of background noise. I acknowledge that at different times of the day the background noise level may be different.
16. LDF Policy DM4 states, amongst other things, that new development should ensure that it does not have a detrimental effect on the residential amenity of nearby residents. Paragraph 123 of the National Planning Policy Framework (the Framework) states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development.
17. The appellant has stated that the majority of work is carried out within the building with the doors closed and that as such any sound transfer is not great. I note that no pneumatic or welding tools are used by the present operators of the garage. However, angle grinders are used and taking into account the nature of the use there is the potential for disturbance to the nearby occupiers from noise emanating from the site. This is evidenced by some of the objections from the residents who identify fixing and breaking of cars in the street, revving engines and grinders being used.
18. No noise assessment has been submitted and as such I have no evidence before me in relation to the existing background noise levels and the noise levels emanating from the development. The noise attenuation provided by the garage with the doors closed may alter the noise levels that arise from the site but I have no technical evidence before me to support this. Taking into account all of the above, the evidence before me does not offer sufficient clarity and robustness for me to be able to conclude that the proposed development will not give rise to significant adverse impacts or other adverse impacts on health and quality of life of nearby occupiers.
19. Indeed as the site is in close proximity to a number of residential properties and their gardens it seems highly likely that noise from the appeal site would be readily heard by the adjacent occupiers and that many of the noises

described, even if not continuous but occurring every now and then, would be likely to be unacceptably disturbing.

20. I have taken into consideration the proposed time limiting condition, but I do not consider that this would make the disturbance that is occurring through the day and on the weekend acceptable in this location. Moreover, without a noise assessment the mitigation measures required cannot be adequately assessed.
21. In conclusion I find that the evidence before me fails to demonstrate that the continued use of the appeal site as a motor vehicle repair garage would not cause unacceptable harm to the living conditions of neighbouring occupiers with particular regard to noise and disturbance and from the information before it appears likely that it would cause such harm. This would not accord with DPD Policy DM4 which, amongst other things, states that new development should ensure that it does not have a detrimental effect on the residential amenity of nearby residents or paragraph 123 of the Framework.

Other Matters

22. S.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The appeal site is within the Worksop Conservation Area (WCA). As the development involves minimal changes to the external appearance of the building which can be controlled by the way of a condition, if I was minded to allow the appeal, it would have a neutral impact on the character and appearance of the WCA. As such the character and appearance of WCA would be preserved.

Conclusion

23. I acknowledge that the use of the building does provide a commercial use and employment for two people within an existing structure and these are benefits in social and economic terms. However, because of the harm found in relation to highway safety and the living conditions of the neighbouring occupiers with particular regard to noise and disturbance the development conflicts with the DPD, read as a whole, and does not accord with the environmental dimension of sustainable development.
24. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour and that the appeal should be dismissed.

D. Boffin

INSPECTOR