
Appeal Decision

Site visit made on 28 September 2016

by Clive Nield BSc(Hon), CEng, MICE, MCIWEM, C.WEM

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

Decision date: 7 October 2016

Appeal Ref: APP/F1610/C/16/3147646

Land at the Colt Car Company Limited, Watermoor Road, Cirencester, Gloucestershire, GL7 1LF

- 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 Nick Spratley of The Colt Car Company Ltd against an enforcement notice issued by Cotswold District Council.
 - The enforcement notice was issued on 11 March 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of fixed metal racking to the north-west elevation of the existing building on the land.
 - The requirements of the notice are to permanently remove the unauthorised racking from the land.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a), (f) and (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 also falls to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at the Colt Car Company Limited, Watermoor Road, Cirencester, Gloucestershire, GL7 1LF, as shown on the plan attached to the notice, for the installation of fixed metal racking to the north-west elevation of the existing building, subject to the following conditions:
 - 1) The development hereby permitted shall be completed with roof and side panels in accordance with drawing Nos. PL3, PL7 and PL8 submitted in respect of planning application Ref. 15/03215/FUL, which was refused on 12 December 2015.
 - 2) Within 2 months of the date of this permission a scheme shall be submitted to and approved in writing by the local planning authority specifying the provisions to be made for the control of noise associated with the use of the racking hereby permitted, including limits on hours of operation of the forklift truck for loading and unloading of the racking. The provisions shall thereafter be implemented as approved.

Appeal under Ground (a) and Deemed Planning Application

2. The main issues to be considered for the appeal under ground (a) and the deemed application for planning permission are the effects of the racking on the character and appearance of the area and the effects on the amenity of neighbouring residents.
3. It has been submitted that, due to its height, materials and close proximity to the rear boundary of the adjoining residential properties, the racking is visually harmful and detrimental to the relationship between the industrial site and the adjoining residential properties. However, the host building is a large warehouse and, although its north-west elevation is otherwise uncluttered and simple, it has an obvious industrial appearance.
4. The racking is of functional appearance and is situated close to the corner of the building. Although clearly visible from the north, it covers a relatively short length of the large building and, set against the industrial building, it does not appear out of place. Policies 18, 24 and 42 of the adopted Cotswold District Local Plan require new development to be well designed and to respect the character and appearance of its surroundings. The racking is currently unfinished and a recent unsuccessful application for planning permission to retain it included proposals for a metal roof and metal strip ends. Once these are added I consider it would have little impact on the character and appearance of the site and its surroundings and would comply with those development plan policies.
5. Turning to its effects on the amenity of neighbouring residents, although some 6 metres high and storing a varied range of materials, its visual impact is quite limited in comparison with that of the vast elevation of the industrial building itself. Some neighbouring residents describe the racking as an eyesore. However, it is only marginally closer to the boundary than the building wall and, although quite different from the plain elevation of the building, it is of a functional industrial appearance, which is not out of place in its context. I consider its visual impact to be fairly limited and certainly not so intrusive as to cause an unacceptable effect on residential amenity.
6. Mention has been made of noise due to the forklift truck used to stock the racking. The industrial site already generates an element of noise as a result of activities and movements within the complex, and use of the forklift truck close to the residential properties has the potential to increase this. However, the Council has suggested this could be controlled by means of an appropriate planning condition for a scheme of noise control, and the Appellant has suggested limiting the hours of work when the racking can be accessed. Together, I consider these would provide adequate safeguards to ensure noise effects would not be unacceptable.
7. Concerns have also been expressed about privacy. However, the racking has no pedestrian access and is designed to be loaded and unloaded by forklift. Thus there are no implications for the privacy of the neighbouring residential properties.
8. The loss of the parking spaces displaced by the racking has been raised. The highway authority has raised no objection to the scheme, and the site currently provides far more parking spaces than the minimum number required in planning policy. I do not consider the loss of the small number of spaces to

- have any significance in the context of the large number available on the site. Local residents have mentioned high pressures for on street parking in the area. However, the racking scheme will have negligible effect on this.
9. Finally, the question of health and safety has been raised. The racking is adequately secured to the ground and the building, and there is no reason to consider this to be inadequate. The site operations are also subject to the rigorous requirements of health and safety legislation, and this matter does not materially affect my conclusions.
 10. Overall, I conclude that the racking does not unacceptably affect the character and appearance of the area or the amenity of neighbouring residents. It is in accord with the relevant development plan policies and with national policies in the National Planning Policy Framework.
 11. Some local residents have raised the question of human rights, particularly those in Article 1 of the First Protocol and in Article 8 of the European Convention on Human Rights. These aim to safeguard the protection of property and the right to respect for private and family life, which in this case is taken to refer to the peaceful enjoyment of their homes.
 12. As regards these submissions, I recognise that allowing the appeal and granting planning permission for retention of the racking would result in an interference with the home and private and family life of several neighbouring residents (including Mr Peacock and his family, who raised this matter). However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 1 of the First Protocol and in Article 8, particularly the economic well-being of the country which includes the preservation of the environment and the protection of the rights and freedoms of others.
 13. In the circumstances, I consider that the grant of planning permission and the decision not to confirm the enforcement notice are necessary in a democratic society in furtherance of the legitimate aims stated. They do not place a disproportionate burden on the neighbouring residents, particularly if conditions controlling appearance and noise are imposed. I therefore consider that allowing the appeal would not result in a violation of their rights under the Articles referred to.
 14. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted subject to several necessary conditions.
 15. In reaching my conclusions I have taken into account the improved appearance of the racking that would result from completing it with roof and side panels, and I shall apply a condition to ensure it is so finished (following the example in the Council's committee report for the unsuccessful planning application). A condition is also needed to control the noise generated by use of a forklift truck to load and unload the racking, and this should include limiting the hours of operation to reasonable working hours that safeguard the amenity of neighbouring residents at other times. The Appellant has indicated agreement to these conditions by reference to the Council's committee report for a previous planning application.

Appeals under Ground (f) and (g)

16. As the appeal has been successful on ground (a), the appeal on grounds (f) and (g) does not therefore need to be considered.

Clive Nield

Inspector