
Appeal Decision

Site visit made on 14 March 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 21 March 2017

Appeal Ref: APP/P4605/W/16/3165027

95 Wright Street, Small Heath, Birmingham, West Midlands B10 9SP

- 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 Mohammed Ali against the decision of Birmingham City Council.
 - The application Ref 2016/07981/PA, dated 13 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is a change of use from Class B8 - storage and distribution to sui generis tyre fitting and auto repairs.
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Decision

1. The appeal is allowed and planning permission is granted for Change of Use from Storage & Distribution (Use Class B8) to Vehicle Repairs & Bodyshop (Use Class B2) at 95 Wright Street, Small Heath, Birmingham, West Midlands B10 9SP in accordance with the terms of the application, Ref 2016/07981/PA, dated 13 September 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development as detailed on the application form is set out above. However I note the Council's view that the use would in fact fall into Class B2 (General Industry) and that the appellant concurs with this, given the appeal form and their 'Planning Appeal Summary' which describe the development as "*Change of Use from Storage & Distribution (Use Class B8) to Vehicle Repairs & Bodyshop (Use Class B2).*" I could see from my site visit that the use had already started. I have therefore determined the appeal on this basis and used the description in this paragraph in my formal decision above.
3. Since the Council refused planning permission The Birmingham Development Plan 2031 (BDP) has been adopted by the Council on 10 January 2017. The BDP replaces policies within the Unitary Development Plan which are referred to within both reasons for refusal. The BDP nevertheless does retain Chapter 8 – Additional City-Wide Policies of the UDP. I have considered this appeal based on the current development plan rather than the policies in place when the planning application was refused.

Main Issues

4. The main issues are: (i) the effect of the parking arrangement on highway safety in Wright Street, with regards to the free flow of traffic; and (ii) the
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effect of the development on the living conditions of nearby residential occupants, with regards to noise and disturbance.

Reasons

5. The appeal site was formerly occupied by a Food Processing Company (Use Class B8) who have moved. This resulted in the premises becoming vacant. The scheme entails the building and car park area facilitating two businesses; Best Tyres Fit Ltd and Wright Auto Repairs Ltd who would occupy 25% and 75% of the building respectively. To the rear of the buildings there are offices, storage and toilet facilities. The building itself is set back from Wright Street behind a large area of hardstanding and two gated access points onto Wright Street which benefit from dropped kerbs. Adjacent to the site is Sami Care Nursery, whilst opposite are a number of residential dwellings. The rear elevations of properties on Muntz Street are side onto the flank boundary of the site. These properties are used for commercial uses on the ground floor with residential uses on the first floor.

Highways

6. Wright Street is well used for on-street parking, with vehicles lining both sides of the carriageway and partially spilling onto the lit pedestrian footways that line both sides of the street. As a result the width of the highway within which vehicles travel is reduced. This leads to vehicles travelling at slower speeds and vehicles undertaking manoeuvres in order to pass one another safely. There is also a limited ability for vehicles to turn around due to the absence of a turning head at the eastern end of the street.
7. The front part of the site is shown on the plans to be capable of providing five parking spaces to be split between the businesses, with Best Tyres Fit Ltd taking two spaces and Wright Auto Repairs Ltd taking three spaces. Vehicles would also be held inside the building. The plan in this regard shows a further four spaces and a vehicle ramp in totality. Together the on-site parking provision would, based on the plans, be 10 spaces. However, I did observe on my site visit two vehicle ramps next to the office, storage and toilet facilities, with tall racks of tyres on three sides of the building, tyre fitting equipment and space for at least a further vehicle nearer to the roller shutter door serving the taller side of the building. Thus, the parking arrangement is different and I note the layout shown on the plan ref: 001 is at odds with the second access point which would prevent vehicles from parking in the manner shown.
8. I recognise the Council's Transportation Department consider that a minimum provision of 12 spaces should be provided, at a minimum of four spaces per working bay. However, I am unclear why four spaces are considered to be necessary for each working bay. Despite this and my own findings in respect of the site's layout, I am mindful that the hardstanding in front of the building is of a considerable size and appears to have been resurfaced. In tandem with the space inside the building it provides a satisfactory amount of off-street parking which would roughly in be tune with the Council's suggested minimum.
9. While I recognise Wright Street could also be used for vehicular parking as it is unrestricted and there are a number of similar uses in the vicinity, I do not consider that the proposed use would necessary result in Wright Street being relied upon for parking providing the spaces on the site are made and kept available for use. Moreover the other similar uses are located at the other end

of Wright Street. Thus, I do not consider that the appeal scheme would in this regard add to the current conditions experienced by vehicular and pedestrian traffic using Wright Street.

10. Vehicles, including wagons delivering damaged vehicles, entering and leaving the site would need to manoeuvre around parked vehicles. While this may be so and customer trips in particular may be frequent, both access points are wide enough and vehicles travel at speeds which are dictated by the conditions on the street. Although it is suggested that the businesses would create conflict with the adjacent nursery, especially during drop off and pick up times, I noted an access to the side of the nursery leads onto a small car park. Despite their proximity, there is no evidence to indicate that the site's former use which involved large commercial vehicles entering and leaving the site caused conflict. I am not therefore persuaded, given the extent of on-site parking that can be provided, the existing presence of on-street parking, the speed of traffic and the provision of pedestrian footways that the safety of users of the day nursery would be severely affected.
11. So, even though Wright Street does not offer an ideal highway environment, I do not consider that the appeal scheme would exacerbate this and lead to a severe cumulative impact. While I have been referred to two other nearby premises which were more constrained and offered less off-street parking, as they may be historic uses which pre-date the development plan they have not been a decisive factor.
12. For these reasons, on this issue, I therefore conclude that the appeal scheme would comply with BDP Policy TP44 as sufficient parking would be available to ensure the efficient, effective & safe use of the existing transport network so that the residual cumulative impacts of development would not be severe. It would therefore ensure the planning and location of new development supports the delivery of a sustainable transport network and development agenda.

Living Conditions

13. The area around the appeal site is characterised by a mixture of uses. Despite adjacent uses, the main thrust of the activity would be contained inside the building. I appreciate vehicles being dropped off and by parking or undertaking manoeuvres around the front part of the site would cause some noise and disturbance. However I am not convinced that the effect is very harmful, given the use of Wright Street by a variety of vehicles accessing residential dwellings, the adjacent nursery and other commercial uses further along.
14. Roller shutter openings are in the front elevations of the building. Although they would be open during the day and noise would break out from inside the buildings, resident's homes are a reasonable distance away and the majority of the flank elevation of the nursery nearest the site comprises of brick. I also agree with the Council's Regulatory Services who suggest operations are controlled to particular days and hours of the day. Such a condition would, together with conditions to set noise limits for equipment and to secure a delivery vehicle management scheme, ensure that the proposed uses would only occur during the daytime and not during sensitive times of the day when residents in particular are more likely to feel the effects of the businesses.
15. Thus, while I appreciate the site is in a location near to residential occupants and it is already in operation, I do not consider that the site is necessarily in a

poor location, given the mixture of uses found nearby. Also I am not persuaded that the intensity of the use is so significant that it could not be controlled through the use of planning conditions. For these reasons, I therefore conclude on this issue that the appeal scheme would comply with BDP Policy PG3 as its design responds to local distinctiveness, the site's conditions and it creates a positive sense of place.

Conclusion and Conditions

16. I had regard to the amended version of the conditions suggested by the Council after I sought the parties' views on their wording given that the scheme has already commenced, so that the appellant would have an opportunity to comply with any conditions, in the event that I was minded to allow the appeal. I have not imposed the standard time limit or approved plans condition as suggested by the Council as the development had evidently already commenced on site and was substantially complete.
17. In the interests of residential occupants living conditions, conditions are necessary to control the hours of operation; where operations can be carried out at the premises and for noise from plant and machinery. A condition is necessary in the interests of highway safety for a delivery vehicle management scheme. Conditions are not necessary to secure an amended car parking layout, details of surfacing and the laying out of spaces as the site can provide enough off-street parking on what appeared to be a recently laid surface; or to control body work given that it was part of the development applied for¹.
18. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The uses hereby approved shall only take place between the hours of 09:00 - 18:00 Mondays to Saturdays only.
- 2) No business activity whatsoever shall take place externally at the site, to include vehicle preparation, repairs, or valeting.
- 3) No equipment, raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site at any time except within the hereby permitted buildings or storage areas.
- 4) The rating levels for cumulative noise from all plant and machinery shall not exceed 5dB below the existing LA90 background levels and 10dB below the existing Laeq at any noise sensitive premises as assessed in accordance with British Standard 4142:2014 or any subsequent guidance or legislation amending, revoking and/or re-enacting BS4142 with or without modification.
- 5) Details of a delivery vehicle management scheme shall be submitted to and approved in writing within 3 months of the grant of planning permission by the Local Planning Authority. The approved scheme shall be implemented within 3 months of the date of the approved details and thereafter maintained.

¹ Paragraph 1.1, Design and Access Statement