

Appeal Decision

Site visit made on 28 February, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 24th March, 2017

Appeal Ref: APP/T0355/W/16/3164407

Nene Overland Ltd., Units 1 and 2 Stafferton Way, Maidenhead, SL6 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for siting of temporary buildings (two workshops, office buildings and stores) with external display of cars for sale within the site boundary, and ancillary parking, for a motor vehicle dealership for which a previous planning permission was granted for a limited period.
 - The appeal is made by Mr Anton de Leeuw against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref: 16/01063 is dated 29 March, 2016.
 - The application sought planning permission for siting of temporary buildings (two workshops, office buildings and stores) with external display of cars for sale within the site boundary, and ancillary parking, for a motor vehicle dealership granted planning permission for a limited period Ref: 14/00158, dated 27 May, 2014.
 - The permission is subject to a condition requiring the removal of the buildings and restoration of the land to its former condition on or before 31 March, 2016.
 - The reason given for the condition is: *In the interests of the visual amenities of the area.*
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Decision

1. The appeal is allowed and planning permission is granted for a temporary period for the siting of temporary buildings (two workshops, office buildings and stores) with external display of cars for sale within the site boundary, and ancillary parking, for a motor vehicle dealership at Nene Overland Ltd., Units 1 and 2 Stafferton Way, Maidenhead, SL6 1AY, effective from 1 April, 2016, in accordance with the application Ref: 16/01063, dated 29 March, 2016 and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Procedural Matter

2. A temporary planning permission was granted for the temporary buildings housing a motor vehicle dealership on 27 May, 2014, for a two year period. The application subject to this appeal was made before the expiry of that permission, but it expired shortly thereafter. I have dealt with the appeal on the basis that the appellant is seeking a new temporary permission so that the buildings may be retained for a further two years.
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Background and Main Issue

3. A motor car dealership is trading at the appeal site. The appellant wishes to retain the temporary buildings associated with that use for a further two years. The main issue is the effect on the character and appearance of the area which would arise from retaining the temporary buildings for that period.

Reasons

4. The appeal site sits in a commercial area outside the town centre, with retail and office blocks set in large areas of parking. The temporary showroom and workshops on the site are large sheds of lightweight construction, incorporating profiled metal panelling, well-secured, plastic-sheeted roofs, and glazed doors and windows, while the office is located in a set of Portakabin-style buildings. They are all set below street level in a large site with parking areas and space around them.
5. While lightweight in construction, the appeal buildings appeared to me to be well constructed and well maintained. They have services such as electricity and water, and do not therefore appear conspicuously temporary in nature. I consider therefore that they do not appear particularly discordant or obtrusive, and do not harm the character of an area which includes retail and business units in a variety of forms and functional styles.
6. Temporary permission for these buildings was originally granted on 10 August 2012, and further permission granted in 2014. As the appellant took over the site only in 2014, following the failure of the previous business on the site, and has since then been establishing his business there, his suggestion that further time would be needed to prepare a proposal for permanent buildings on the site appears reasonable.
7. The site is owned by the Council. I have had regard to the Council's argument that a long term lease has not yet been agreed for the site, and that the appellant's future plans for the site should therefore be accorded little weight, although elsewhere in their evidence they have stated that this is not a material planning consideration. The appellant does not have to own or lease the site to seek planning permission and this does not therefore cause me to alter my conclusions on the planning merits of the proposal.
8. The site is currently in an established use, and removal of the buildings would entail removal of the business, leaving a vacant site. Although the Council considers this outcome acceptable in planning terms, it seems likely to me that the process of finding a new tenant and for permanent buildings to be installed would take some months or possibly years, and during that period the site would not contribute positively to the character and appearance of the area.
9. I conclude therefore that the continued presence of the temporary buildings for a further temporary period would not harm the character and appearance of the area, and would not preclude the redevelopment of the site with high quality, permanent buildings after the expiry of a temporary permission. For those reasons the appeal proposal would not conflict with the requirements of Policy DG1 of the adopted Local Plan 2003, which promotes good quality design, or with Policy OA 6 of the Maidenhead Town Centre Area Action Plan 2011 which seeks to achieve an attractive built frontage to Stafferton Way.

Nor would it conflict with Paragraph 64 of the National Planning Policy Framework (the Framework) which seeks to avoid poor design.

10. Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission. However, in this case I consider that the particular circumstances of the site and the business use on it which I have set out above would provide justification for a further temporary permission.

Conclusion

11. For the reasons given above therefore, and taking into account all matters raised, I conclude that the appeal should be allowed, and planning permission granted for the temporary siting of the appeal buildings for a further two years. I have backdated the permission so that it runs from the end of the original period, as allowed by Section 73A (3) (b) of the Planning Act 1990.

Conditions

12. In allowing the appeal and granting planning permission, I have considered those conditions imposed on the original planning permission and suggested by the Council. A condition is attached to ensure that adequate on-site parking and turning facilities are retained in order to reduce the likelihood of on-street parking and to allow vehicles to enter and leave the site in forward gear, in the interests of highway safety. In order to protect the character and appearance of the area, a condition is applied to prevent parking or vehicle display on the frontage of the site. In the interests of preventing contamination from disturbance of contaminated soil under the site, a condition is added to prevent the breaking up of the pre-existing hard standing.
13. Paragraph 200 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. No clear justification has been put before me, and I have not therefore applied such a condition.
14. The temporary development would not increase the impermeable area of the site, and I consider therefore that it would not be reasonable or necessary to add a condition replicating those on the previous temporary permissions which requires the submission of details of the disposal of surface water.

S J Buckingham

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The use hereby permitted shall be for a limited period commencing 1 April, 2016. The development shall be discontinued, and all structures removed from the site and the land restored to its former condition on or before 31 March, 2018.
- 2) The parking and turning area shown on drawing 1558/1E shall be kept available for parking and turning in association with the development.
- 3) The area marked as "no parking or display of vehicles" on plan 1558/1E shall not be used at any time for the parking or display of vehicles.
- 4) There shall be no breaking up of the hard standing on site.