
Appeal Decision

Site visit made on 28 February 2017

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 12 April 2017

Appeal Ref: APP/N4720/W/16/3164877

Car Park Adjacent to Florence Nightingale Public House, Beckett Street, Leeds LS9 7JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Andrew Pearce of A P Construction (York) Ltd against the decision of Leeds City Council.
 - The application Ref 16/04602/FU, dated 21 July 2016, was approved on 21 October 2016 and planning permission was granted subject to a condition.
 - The development permitted is the use of land as a car park.
 - The condition in dispute is No 1 which states that: "*The use hereby permitted shall be discontinued on or before 21 October 2021.*"
 - The reason given for the condition is: "*In the interests of safeguarding the delivery of public transport infrastructure in accordance with adopted Core Strategy (2014) Policies SP3, SP11 and CC3.*"
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have used the description of the development from the decision notice rather than the application form as this more accurately describes the proposal before me.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary in the interests of the delivery of public transport infrastructure.

Reasons

4. Saved Policies T12 and T13 of the Leeds Unitary Development Plan (Review 2006) (the UDP) identified the appeal site as a suitable location for the Supertram route and therefore it was safeguarded. However, I understand that the Supertram project was cancelled in 2005 for funding reasons. However, the Government at the time stated that money would be made available for a high quality bus based rapid transit system. Consequently, the Council pursued the development of New Generation Transport (NGT), a trolleybus scheme, running on the same routes as the Supertram. The appeal site lies along an identified route to enable the future implementation of public transport infrastructure.
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5. In May 2016 the Secretary of State for Transport rejected the NGT as a compelling case had not been made for giving the powers required to implement the scheme. However, since then the Government has awarded the funding sought as part of the NGT to be invested in public transport projects in Leeds. I understand that following consultation on how the money should be invested and a submission to the Department for Transport (DfT) a decision to proceed with the improvements is pending. Furthermore, a Transport Strategy is being developed by the City Council which will identify a longer term vision for transportation in the City.
6. Policies SP3 and CC3 of the Leeds Core Strategy (adopted November 2014) (the CS) seek to improve public transport links in the City and improve connections between the City Centre and adjoining neighbourhoods. Also, Policy SP11 deals with transport infrastructure investment priorities, priority (i) of which relates to public transport improvements for bus and rail networks and confirms the importance of a rapid transit system to increase radial route capacity to the City Centre and Town Centres. Sub-section (vii) which supports the development of new infrastructure to serve new development including within regeneration areas. I understand from the evidence before me that this includes Beckett Street which lies in the East Leeds Regeneration Area. Routes designated within the emerging transport strategy will be protected from development. The NGT extension to St James' Hospital is one such designated route according to the CS.
7. Public transport improvement options include mass transit systems which are currently being developed. I am also advised that, given the need to provide good quality and reliable public transport links to St James' Hospital, Beckett Street will be an important corridor in the emerging transport strategy for the City. Land within the appeal site may be required in order to advance a mass transit system and it is therefore important that it is not compromised.
8. Given the strategic importance of the Beckett Street route, the aspirations for improving public transport facilities along the route and the emerging position regarding options, the Council is likely to have greater certainty regarding the proposals for the route in the near future.
9. Planning Practice Guidance¹ states that it will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission should be granted permanently. Although in this case there are no firm indications that the site will be required I do not believe that such uncertainty justifies a permanent planning permission that could compromise the improvements to public transport facilities now that the funding has been made available and a delivery strategy is being put in place.
10. I understand that improvements to public transport may involve compulsory purchase orders to acquire the necessary land, which may include the appeal site. I also acknowledge that the temporary condition may give uncertainty

¹ Planning Practice Guidance ID: 21a-014-20140306

about the future of the land and therefore prevent the appellant from actively managing or investing in the site.

11. However, it is clear to me that the site is part of an important public transport corridor and that it may be an important component in delivering transport connections and improvements as set out in the CS. Therefore, it is important that these objectives are protected and the grant of planning permission for a temporary 5 year period for the car park from 21 October 2016 represents a suitable solution that safeguards the route whilst at the same time allowing the appellant to generate income from the car park.

Conclusion

12. For the above reasons and taking account of other matters raised I conclude that the condition is reasonable and necessary in the interests of the delivery of public transport infrastructure and the appeal should be dismissed.

Alastair Phillips

INSPECTOR