

Appeal Decision

Site visit made on 18 April 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/V4630/W/17/3167927

Land adjacent to Hollyhedge Lane, between Wolverhampton Road and Hollyhedge Close, Walsall WS2 8LR

- 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 Gurpreet Sidhu of Sidhu Properties against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 16/1160, dated 12 August 2016, was refused by notice dated 12 January 2017.
 - The development proposed is temporary fencing to part of site and temporary change of use of part of site to car sales lot, including signage.
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Decision

1. The appeal is allowed and planning permission is granted for temporary fencing to part of site and temporary change of use of part of site to car sales lot at Land adjacent to Hollyhedge Lane, between Wolverhampton Road and Hollyhedge Close, Walsall WS2 8LR in accordance with the terms of the application, Ref 16/1160, dated 12 August 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the proposal does not include any detailed information of any signage. In any event the display of advertisements is regulated by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Council considered the proposal on this basis and so shall I.
 3. I note the site address on the application form. However as the description provided alongside this is more accurate, I have therefore used this.
 4. I understand the main parties have continued to discuss the second reason for refusal since the Council refused planning permission. This has resulted in the submission of a revised 'Site Modifications' plan on 21 March 2017. I could see from my site visit that the fencing had been installed and that a number of vehicles were parked on the site. However none were advertised for sale.
 5. While the appeal process should not be used to evolve a scheme and a fresh planning application should normally be made, the changes shown on the revised plan could, as the Council suggest be potentially dealt with by means of planning conditions. I have therefore considered this appeal on the basis of the
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Site Modifications plan on 21 March 2017. I also note that the Council have, in their appeal statement, focussed their case towards the first reason for refusal.

Main Issues

6. The main issues are: (i) whether the proposed development would affect the emerging character of the area; and (ii) the effect of the proposed access and parking arrangements on highway safety in Hollyhedge Lane and Wolverhampton Road.

Reasons

Character of the area

7. The appeal site is relatively large and bounded by Wolverhampton Road, Hollyhedge Lane and Hollyhedge Close. It lies on the edge of Walsall Town Centre and in an area characterised by a mixture of residential and commercial uses, the former of which include a builders yard, a garage and a tyre fitters. To the north, beyond Hollyhedge Close are terraced residential dwellings.
8. I noted the completed housing developments off Wolverhampton Road to the east and west of the appeal site. Moreover outline planning permission was granted in December 2016 on the Harvestime site to the north¹. Still, a reserved matters application is far from imminent on this site, given the requirements of the planning conditions attached to the decision notice. Thus, it seems that any residential development on this site will take a little time yet to come forward. While, the areas character may well change in the future and I note the Council's aspirations, my findings need to relate to the current circumstances. Despite the sites referred to, they do not alter the current very mixed character of the site and its surroundings.
9. Notably, the Council are seeking to widen the choice of high quality homes, but the Council's Planning Policy Team explain that they have a plentiful supply of housing to meet the identified need until 2026. However to deliver new homes in the longer term, the emerging Walsall Site Allocation Document (WSAD) identifies several sites; including the appeal site² for residential development. The appeal site is earmarked for 14 units, despite the site not being allocated for housing in the Council's Unitary Development Plan (UDP). Thus, the site's allocation in the emerging WSAD is a shift from saved UDP Policies ENV14 and H3 which seek to *encourage* the use of previously developed land.
10. I understand the WSAD was due to be submitted for examination on 10 April 2017. While there may not have been any objections to the site being allocated for housing, objections have been received in respect of a nearby site. As the WSAD has yet to be examined in public and there are unresolved objections, the policy and site allocations identified in emerging WSAD Policy HC1 could well change. Thus, with regard to paragraph 216 of the National Planning Policy Framework (the Framework) even though great weight is attached to the value of using undeveloped brownfield land for new homes³, I give the WSAD very little weight. The policies within the WSAD are not therefore decisive to this appeal's outcome, given that they are not yet part of an adopted development plan.

¹ Council Application Ref: 16/1514, granted 5 December 2016 for up to 80 dwellings

² HO65 in emerging WSAD Policy HC1

³ Fixing our broken housing market, February 2017, paragraphs 1.22, 1.25 and 1.30

11. Still, if the proposed use continued beyond the BCCS plan period, given the intentions of the WSAD and paragraph 47 of the Framework, it would, despite the potential scale of any housing development bring into question the site's contribution to the long term delivery of new homes in the borough.
12. While a long-term strategy is required, the crucial point when the site's contribution would affect the delivery of new homes in the borough is still some way off. This point is beyond the temporary period sought. The site has been vacant a long time and it seems to have been subject to vandalism and fly tipping. Thus, the proposal would result in positive, albeit time bound, economic, social and environmental benefits that would stem from the occupation of this brownfield site and improvements to its appearance. These would ensure the site plays a role in securing economic growth and achieving a high quality environment on a busy thoroughfare that functions well and responds to the current local character. The proposal would also not result in the loss of employment land in the short-term. Even though the site may be needed for junction improvement works, there are no details of these before me. So, I cannot be certain that the site is required for these.
13. Furthermore there is no evidence to suggest that prospective developers would be put off by the proposed short term use or that it would not encourage the future of the use of a previously developed site for housing as sought by Saved UDP Policy H3. As a result, the proposal, in its temporary form, does significantly lessen the harm. Given this, the proposal would not prejudice the long term ambitions or aspirations of the emerging WSAD nor existing and neighbouring uses. Even if the site could be pursued for residential development now and alongside other developments, I have considered this appeal on the basis of the proposal before me. A temporary use of the site, given the scale and nature of the operations, would not therefore restrict any strategy or future regeneration of the site or wider area for residential homes or detrimentally affect the mixed character of the area.
14. I conclude on this issue that proposal would accord with BCCS Policy DEL2, saved UDP Policies ENV14 and H3 together with paragraphs 17, 56, 57, 58, 60, 61 and 64 of the Framework. Collectively these seek, among other things, to encourage the provision of additional housing; the reclamation and development of derelict and previously developed land; high quality functional design that responds to local character and to resist new development where this may restrict the regeneration of the area by virtue of the scale and nature of the operations, traffic generation and other amenity considerations.

Highway Safety

15. Wolverhampton Road is a dual carriageway which has a traffic light controlled junction with Hollyhedge Lane at the south-eastern corner of the appeal site. Double yellow lines extend along this part of Hollyhedge Lane on both sides. These continue into Hollyhedge Close. A pedestrian footway runs next to the eastern boundary of the site extending from the pedestrian crossing over Wolverhampton Road to the terraced dwellings to the north of the site. The nearby highways, with the exception of Hollyhedge Close are busy. They are also used by buses and there are stops within a short walking distance of the appeal site on both highways.
16. Given the proposed use and local highway conditions, I agree with the Council that planning conditions would overcome the second reason for refusal insofar

as the effect of the site's operation on highway safety. These conditions would cover matters such as hard surfacing; parking provision; details of boundary treatment and visibility splays; drainage details and the control of an access point on Hollyhedge Lane. However, a condition controlling the loading and unloading of vehicles on the public highway would not meet the tests set out in paragraph 206 of the Framework.

17. Accordingly, subject to the imposition of the Council's suggested conditions, the proposed access and parking arrangements would not harm highway safety in Hollyhedge Lane and Wolverhampton Road. The proposal would comply with BCCS Policy TRAN1, UDP Policies GP2, T7 and T13 together with paragraphs 32 and 35 of the Framework. Jointly these seek development, among other things, to provide an adequate safe and suitable access to the site for all modes and provide adequate well designed parking facilities so that there will be no adverse effect on highway safety.

Conclusion and Conditions

18. I have had regard to the conditions suggested by the Council in the event that I were to allow this appeal. Given the potential harm which could arise from the long term use of the site as a car sales lot, I have imposed conditions regarding a two year temporary time period and the approved plans in the interests of certainty and clarity. I have also included a reasonable time period to allow the store to be restored.
19. Conditions in respect of drainage, the parking layout, a turning facility, the use of the secondary access point and the boundary treatment within the visibility are all necessary in the interests of highway safety. I have therefore imposed these conditions despite the fencing being in place, as this is higher at the access point than the height sought by the condition. I have not imposed a condition controlling the loading and unloading of vehicles on the public highway, as this would duplicate highway controls already in place. Lastly, I have imposed a combined condition regarding the hours of business, open storage, amplification equipment and external lighting in the interests of the living conditions of residents and the character and appearance of the area.
20. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The use hereby permitted shall cease no later than 2 years from the date of this decision. All vehicles, site cabins and fencing shall be removed from the site and the land restored to its former condition on or before 31 July 2019 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan submitted on 27/10/16; Site modifications plan submitted on 15/8/16; Block Plan submitted on 15/8/16 and Site modifications drawing submitted by email dated 21 March 2017.

- 3) Prior to the site first coming into operation for a temporary period as a car sales lot, a site layout plan shall be submitted to and approved in writing by the Local Planning Authority demonstrating:
 - i) A turning facility within the site to facilitate the largest delivery/transporter vehicle expected to serve the site to leave the site in a forward gear;
 - ii) Details of the parking layout indicating the car sales pitches, customer and staff parking areas with at least 10% of the spaces being for customers. One parking space shall be allocated for disabled users and demarcated accordingly.
 - iii) Details of a suitable boundary treatment within the visibility splay envelope at the main access/egress point on Hollyhedge Lane to prevent the area being used for indiscriminate parking. The boundary treatment shall not exceed 600mm in height above carriageway level.
- 4) No washing of cars shall take place on the site until full drainage details to prevent waste water from discharging onto the public highway or into any highway drain, have been submitted to and approved in writing by the Local Planning Authority and the drainage fully implemented in accordance with the approved details.
- 5) Notwithstanding the annotation shown on the submitted 'Site Modifications' drawing dated March 2017, the existing secondary access point on Hollyhedge Lane between the main access and Hollyhedge Close, if utilised for vehicular traffic shall be an IN only and shall not at any time be used as an exit.
- 6) Prior to the site first coming into operation for a temporary period as a car sales lot, the proposed hard bound surfaced area shown on the submitted 'Site Modifications' drawing March 2017, extending between and beyond the main access point on Hollyhedge Lane and the back of highway, shall be fully implemented and thereafter maintained in a clean condition.
- 7) The site shall not be open for business outside the hours of 0900 to 1800 hours Monday to Saturday and 0900 to 1300 hours on Sundays, Bank Holiday or Public Holiday.
- 8) There shall be no amplification equipment or external lighting installed on the site or open storage on any part of the site.