

Appeal Decision

Site visit made on 1 July 2019

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2019

Appeal Ref: APP/P4605/W/18/3219131
220 Shaftmoor Lane, Birmingham, B28 8SP

- 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 George Matts of Loc-Box Self Storage against the decision of Birmingham City Council.
 - The application Ref 2018/00411/PA, dated 16 January 2018, was refused by notice dated 15 August 2018.
 - The development proposed is change of use of land to B8 to allow self storage
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of the occupants of neighbouring dwellings with particular regard to lighting, noise and disturbance, and privacy; and,
 - highway and pedestrian safety

Reasons

Character and appearance

3. The appeal site is a piece of former industrial land. It is roughly rectangular in shape and fronts on to Shaftmoor Lane. The appeal site is separated from the pavement by a palisade fence. It is largely cleared but there are some remains of its former industrial use visible on the site.
4. Behind the site there is an industrial estate and to its east, a large former industrial site. Part of the industrial area was a former Rolls Royce factory. At the time of my site visit the adjacent site to the east of the appeal site was fenced off and appeared to be the subject of clearance works. On the western side of the appeal site are shops, a public house and houses, whilst opposite there are houses and a specialist care facility.
5. The character of the wider area is mainly residential. However, the immediate area is currently undergoing change with the adjacent site now the subject of housing proposals as part of a wider regeneration initiative involving Homes England. Consultation on a housing scheme on that site has taken place although planning permission for residential development does not yet exist.

The Council indicates that some of the uses within the industrial estate to the rear are likely to relocate as part of regeneration proposals.

6. The appeal proposal is to change the use of the site and to place a number of shipping type containers across it. The 136 containers would be around 6m in length by around 2.43m in width each. They would sit side by side and would be located in rows across the site. The containers would be rented out as storage and renters would be able to enter the site by vehicle on a 24 hour basis to gain access to their container. The site would be subject to security measures including CCTV and floodlighting. Access would be made from Shaftmoor Lane.
7. The appeal site and its larger adjacent site on Shaftmoor Lane have both accommodated industrial uses in the past. The evidence indicates that the industrial nature of the adjacent site is likely to change given particularly the Homes England's proposals for the site. I attach considerable weight to that proposal in my decision as although it has not reached a planning application stage yet, the site is expected to be redeveloped as it is being cleared, and the housing proposals have been subject to consultation from Homes England. I have not been provided with any evidence to indicate that residential development would or could not come forward on that site or that there are proposals for industrial or commercial uses on it.
8. However, even if that proposal did not proceed, the character of the area has a significant established residential component. Indeed the industrial sites are surrounded on Shaftmoor Lane, Cateswell Road, and Spring Road, by predominantly residential properties with a suburban feel. The appearance of the proposal would jar with the residential character of the area particularly with the streetscene on Shaftmoor Lane. Houses face directly on to the site from the other side of Shaftmoor Lane. On the appeal site side of the road near to the Cateswell Road roundabout the character is residential with some commercial uses present, commercial uses which typically sit comfortably within residential areas. I consider that the use of the site to accommodate a significant number of closely packed shipping like containers would be harmful to the character and appearance of the area.
9. I have no evidence that the appeal proposal would hinder or frustrate the ability to bring forward the Homes England scheme. Nevertheless, I consider that the proposal would jar with the established character of the area. In reaching this conclusion, I have taken into account the poor appearance of the site currently within the streetscene.
10. I have had regard to the planning approval for the change of use of a multi-storey car park on the adjacent site which the appellant has drawn my attention to. I do not have details of that scheme to change the use to storage before me but consider it different to the current proposal particularly since it was the use of an existing structure which sits over a railway line, not an area of land. Nonetheless, I have considered the proposal before me on its merits and on the basis of the submitted evidence.
11. For the reasons set out above, I consider that the proposal would be significantly harmful to the character and appearance of the area and would be contrary to Policy PG3 of the *Birmingham Development Plan 2017* (the BDP) which seeks to promote high design quality and a strong sense of place. It would also be contrary to saved paragraph 3.14D of the *Birmingham Unitary*

Development Plan (the UDP) which requires development to adhere to good design principles. The proposal would also be contrary to the Council's *Places for All Supplementary Planning Guidance* which, amongst other things, requires development to be appropriate to its context and build on local character.

Living Conditions

12. The appellant has submitted a noise assessment with the appeal. The noise assessment was undertaken after the decision of the Council. In its statement of case, the Council still expresses concerns about the noise impact of the proposal on the occupants of neighbouring dwellings. In particular, the Council is concerned about noise relating to the gate operation. However the Council has not sought to challenge the technical information within the assessment.
13. The noise assessment includes the modelling of noise emanating from the noise of the gate opening motor. The submitted noise contours show that noise is likely to extend from the boundaries of the site in particular in the vicinity of the gate. However, the noise assessment indicates that noise from the proposal would not exceed the background noise levels at any period, including the operation of the gate providing that an acoustic fence could be provided as part of the development in order to help mitigate noise impact. I consider that if the appeal were to be allowed, this could be secured by an appropriate condition, with the details of it submitted to and approved by the Council prior to the use commencing.
14. On the basis of the evidence submitted, I consider that the proposal would not harm the living conditions of the occupants of neighbouring properties with regard to noise and disturbance.
15. The appellant has also submitted a lighting assessment since the decision was made by the Council. The technical information is not disputed by the Council and no contrary lighting assessment has been put forward. The proposed lighting would ensure security and enable the operation of the storage facility. The lighting would be on columns positioned around the site.
16. The appellant has used the Institute of Lighting Professionals (ILP) guidance notes for the reduction of obtrusive light as a basis for assessing the effects of the lighting. Assessments of impact on various receptors has been made and all accord with that guidance and ILP environmental zone criteria, subject to certain mitigating measures. If the appeal were to be allowed, I consider that these measures could be the subject of an appropriate condition which would ensure that the Council could control their detail, implementation and retention. On the basis of the evidence before me, I consider that the proposal would not have an adverse impact on the living conditions of the occupants of neighbouring dwellings with regard to light.
17. The proposal would incorporate CCTV for security and safe operation of the use. The site is very close to residential properties and those on the opposite side of Shaftmoor Lane face directly towards the site. The CCTV cameras would be focussed on the site as this would accord with the purpose of having the security system. However, in the interests of privacy, it would be reasonable for a condition to be imposed should the appeal be allowed, which would require details of the proposed CCTV system including camera locations, to be agreed with the Council and implemented in accordance with the agreed details.

18. For the reasons set out above, I consider that the proposal would not cause harm to the living conditions of the occupants of neighbouring dwellings with regard to noise and disturbance, lighting and privacy, subject to the imposition of appropriate conditions. The proposal would accord with Policy PG3 of the BDP in this regard, and with the relevant part of the National Planning Policy Framework (the Framework).

Highway and pedestrian safety

19. In its planning officer report, the Council expressed concern about the impact of the proposal on highway safety as a result of the potential for cars to be parked off site. Although one of the reasons for refusal, the Council has not provided any additional evidence in its statement of case to support its position. The appeal is supported by a highway impact assessment which indicates that any one time between one and three vehicles, up to a possible five at the busiest periods, would be using the site. The highway impact assessment is not disputed and on the basis of the its expected level of usage, I consider that the proposal would not lead to harm to highway safety as a result of displaced car parking. Neither do I consider that the proposal would lead to harm to pedestrian safety due to the enclosed and secure nature of the site, and the low numbers of vehicles moving on the site at any time.
20. I also consider that users of the facility would seek to park close to their storage container and not in the street. For these reasons I consider that the proposal would accord with Policy TP44 of the BDP which seeks to promote the efficient, effective and safe use of the existing transport network. It would also accord with the Framework in respect of its provisions on highway impacts.

Other matters

21. The appellant has submitted a contamination report with the appeal. This report was not available to the Council when it made its decision. The Council still has concerns about how contamination on the site would be addressed. I consider that if the appeal were to be allowed, I could impose an appropriate condition to ensure that any contamination would be dealt with in a satisfactory manner.
22. The proposal would provide minimal employment benefits but would provide storage for local businesses thereby providing a benefit to the local economy. I attach limited weight to this consideration.

Conclusion

23. I have found that no harm to the living conditions of the occupants of neighbouring dwellings would arise with regard to noise and disturbance, lighting and privacy, and that the proposal would not cause harm to highway or pedestrian safety. However, I have found that the proposal would cause significant harm to the character and appearance of the area and the limited benefits of the scheme do not outweigh this harm.
24. For the reasons set out above, I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR