



Appeal Decision

Site visit made on 11 September 2019

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/A1910/W/18/3218197

Woodland Works, Water End Road, Potten End, Berkhamsted, HP4 2SH

- 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 Crimson Investment Assets Inc against the decision of Dacorum Borough Council.
 - The application Ref 4/01496/18/FUL, dated 12 June 2018, was refused by notice dated 3 October 2018.
 - The development proposed is the retention of 4 no. storage containers and the placement of 3 no. additional storage containers (Use Class B8).
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Decision

1. The appeal is allowed and planning permission is granted for the retrospective placement of 4 no. storage containers and the placement of 3 no. additional storage containers (Use Class B8) at Woodland Works, Water End Road, Potten End, Berkhamsted, HP4 2SH, in accordance with the terms of the application Ref 4/01496/18/FUL, dated 12 June 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing Numbers: 1410/100, 1410/101, and 1410/102; Environment Noise Survey Report - October 2018; and Planning Design and Access Statement - June 2018.
 - 2) Prior to the three new containers being brought into use, they shall be fitted with the sound reduction measures (rubber bumps stops and soft closing mechanisms for the doors) as set out in the Environmental Noise Survey Report October 2018. These measures shall also be fitted to the four existing containers within 3 months of the date of this decision. The sound attenuation measures shall be retained in place at all times throughout the life of the development.
 - 3) The containers hereby approved shall only be accessed (opening and closing of the doors) between the hours of 08:00 – 18:00 on Monday – Friday (excluding Bank Holidays) and between the hours of 08:00 – 13.00 on Saturdays.

Application for costs

2. An application for costs was made by Crimson Investments Assets Inc against Dacorum Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. Four of the storage containers that form part of the appeal development have already been placed on the site. Consequently, I have dealt with the proposal as being for the retrospective placement of 4 no. storage containers and the placement of 3 no. storage containers (Use Class B8). I have used this description in my decision above.
4. It is common ground between the two main parties that the containers are considered to be 'buildings' because of their permanence. In addition, the parties also agree that the lawful use of the site is storage (Use Class B8) and that no change of use is involved. I have no substantive reasons to disagree with the parties on both of these matters and I have, therefore, dealt with the appeal on that basis.

Main Issues

5. These are;
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework 2019 (the Framework) and Development Plan Policy;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on highway safety.

Reasons

Inappropriate Development

6. The appeal site is an area of land which is situated between the rear of a motor vehicle repair and MOT garage and the rear gardens of residential dwellings. Residential properties on the opposite side of Browns Spring face the site. It is partially screened by fencing and vegetation, although the site and the existing containers are visible when entering Browns Spring from Water End Road. Browns Spring is a relatively narrow no-through road, comprising a mixture of detached and semi-detached residential properties. The site is within the Metropolitan Green Belt.
7. Paragraph 145 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate within the Green Belt, unless the development accords with one of the listed exceptions. One of the exceptions is limited infilling in villages (paragraph 145 e). Policy CS6 of the Council's adopted Core Strategy 2013 (CS) also allows for limited development in villages, but it refers only to infill being affordable housing for local people. The Framework places no restrictions on the type of infill development in terms of use.
8. In that regard, there is some tension between the provisions of the Framework and the wording of Policy CS6. The Council argues that the proposal is unacceptable because it conflicts with the requirement of the Development Plan and that no very special circumstances have been put forward to justify the proposal.
9. It is a statutory requirement that applications for planning permission be determined in accordance with the Development Plan, unless material

considerations indicate otherwise. The provisions of the Framework are material considerations and it is a matter for the decision maker to determine how much weight should be given to its content. In this case, the Framework is a more recent document and because of this, I consider that where there is a conflict, it should be given greater weight in decision making.

10. The appeal site is relatively small and is contained by existing built development and gardens. In my opinion, the proposal represents infill development and it accords with paragraph 145 e) of the Framework. Consequently, the appeal proposal is not inappropriate development within the Green Belt. Furthermore, because the development is not inappropriate, there is no requirement to consider the effect of the proposal on the openness of the Green Belt.

Character and Appearance

11. Policy CS1 of the CS requires that the rural character of the Borough be conserved. In addition, Policies CS11 and CS12 seek to ensure that new development respect the built form and character of the area. These policies are consistent with the provisions of paragraph 127 of the Framework.
12. The appellant and the Council both accept that the lawful use of the site is storage. In that regard, it is perfectly reasonable that buildings for storage purposes are an ancillary part of the operation. In addition, the appeal site is viewed in the context of the adjoining motor vehicle repair garage building and its associated outside yard area. In my opinion, the appeal development does not appear out of context with its immediate surroundings. Furthermore, the additional containers proposed would be set back towards the rear of the site and they would not be highly visible due to their position; their relatively low height; and because they would be largely screened by the existing garage building.
13. For these reasons, I consider that the appeal development (both existing and proposed) does not (and would not) have an unacceptably harmful effect on the character and appearance of the area. Accordingly, there is no conflict with the policies of the CS or with the Framework, as referred to above.

Highway Safety

14. The Council argues that the appeal development would result in the intensification of vehicle movements on Browns Spring, which would be detrimental to highway safety and on the operation of adjoining highways. It also refers to the access onto Browns Spring being shared with the adjoining garage.
15. One of the principles contained in Policy CS8 of the CS is to improve road safety, whilst Policy CS12 requires new development to provide a safe and satisfactory means of access for all users. In addition, Policies 57 and 58 of the Dacorum Borough Local Plan seek to ensure the provision of on-site parking in accordance with a list of criteria. I have also taken into account paragraph 109 of the Framework, which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

16. The appellant states that visits to the site will be infrequent, amounting to three visits per week during normal working hours. In addition, the appellant's supporting Transport Statement concludes there would not be a substantial increase in vehicle movements along Browns Spring as a result of the development and accident data shows that there is no record of recent incidents. In reaching my decision on this appeal, I have also taken into account the consultation response from the Highways Officer at Hertfordshire County Council, who raised no objection to the proposal.
17. At the time of my site visit cars were parked along Browns Spring in the vicinity of the appeal site. However, road works were being undertaken in the area and temporary traffic lights were in operation. Consequently, it is not possible for me to conclude if on-street parking is a normal occurrence. Nevertheless, I have taken into account the statement by the Council that the existence of the existing containers causes 'severe parking and access difficulties' for neighbouring residents. In addition, I have considered the submissions from local residents in relation to this issue. These include detailed comments in relation to visibility, road widths and existing vehicle movements, amongst other things.
18. Whilst there is no guarantee that vehicle movements to and from the site will not exceed three per week, on the basis of the substantive evidence before me, I am not persuaded that appeal proposal would lead to an unacceptable increase in traffic generation and that any increase is unlikely to create a danger to highway users, particularly as vehicle speeds in the vicinity of the appeal site are likely to be relatively low and any vehicles using the access will be visible to other drivers and pedestrians. Consequently, I conclude on this issue that the proposal would not have an unacceptable impact on highway safety or on the convenience of other highway users. Therefore, it would not conflict with the provisions of the Development Plan or with the Framework, as referred to above.

Other Matters

19. Concerns have been expressed by local residents regarding the impact of the development on residential amenity. In particular, reference is made to noise and disturbance from the proposed development. In that regard, I have also considered the conclusions of the appellant's Environmental Noise Survey and the comments of the Council's Environmental Health Officer. Given the proposed hours of use, together with the noise attenuation measures proposed by the appellant, both of which can be controlled by planning conditions, I consider that the development would not have an unacceptably adverse effect on the living conditions of the occupants of nearby dwellings.

Conditions

20. The Council and the appellant have suggested conditions in the event of the appeal being allowed. These have been considered in the light of the advice contained within the Planning Practice Guidance.
21. As part of the proposed development has been carried out, there is no need for the standard condition relating to the commencement of development.

22. For clarity and the avoidance of doubt, a condition requiring the development to be carried out in accordance with the approved plans and documents is necessary.
23. Conditions are also imposed that restrict the hours during which the containers can be accessed and to ensure the fitting of sound attenuation measures. At the request of the appellant, the condition relating to hours includes access to the containers on Saturday mornings. These two conditions are necessary to protect the living conditions of the occupants of nearby dwellings. With regard to the sound attenuation measures, I have amended the Council's suggested condition to ensure that these are also fitted to the existing containers within 3 months of the date of this decision.

Conclusion

24. For the reasons given above, it is concluded that the appeal should be allowed.

Ian McHugh

INSPECTOR