



Appeal Decision

Site visit made on 10 December 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/X4725/W/19/3237457

Former Wakefield Express site, Express House, Southgate, Wakefield WF1 1TE

- 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 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Linfit Investments Ltd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 18/02809/S7301, dated 21 June 2019, was refused by notice dated 19 August 2019.
 - The application sought planning permission for a temporary short stay car park without complying with a condition attached to planning permission Ref 18/02809/FUL, dated 8 March 2019.
 - The condition in dispute is No 4 which states that: 'Not later than 30 June 2019 the car park to which this decision notice relates shall be surfaced in 75mm of nom. 19mm tarmac base coat and the drainage system shall be modified to include new surface water drainage channels, a surface water manhole and an oil separator. The surfacing and drainage works shall be carried out in accordance with the details set out on the drawing entitled 'Proposed Drainage Layout', received on 21 February 2019, or any alternative drawing showing surfacing and drainage details which has been submitted to and approved in writing by the Local Planning Authority under the provisions of this planning condition. The surfacing and drainage works shall be retained and maintained for the lifetime of the development.
 - The reason given for the condition is: 'In the interests of urban design and visual amenity and to ensure that the proposed car park use does not pose an unacceptable risk of causing ground or water pollution, in accordance with Policies D20 and D25 of the Local Development Framework Development Policies Document and the provision of the CWAAP'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted an alternative scheme for surfacing and drainage as part of their appeal statement. The Procedural Guide, Planning Appeals – England indicates at paragraph M.2.1 that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested parties' views were sought. Consequently, I

have based my decision on the plans upon which the Council made its decision when it determined the application.

Background and Main Issues

3. The appeal site sits within Wakefield city centre, at the southern edge of the primary shopping area. In March 2019 planning permission was granted for the temporary use of the site as a car park. Condition 4 attached to this permission required the car park to be hard surfaced, the drainage system to be modified and an oil separator installed.
4. The car park is in operation but has not been hard surfaced, nor has the drainage system required by Condition 4 been installed. The appellant applied to the local planning authority for planning permission to use the site as a car park without complying with Condition 4, an application which the Council refused. The Council also alleges that the appellant is in breach of a number of the other conditions attached to the original permission. However, these other conditions are not disputed by the appellant in the case now before me and in my view these are matters to be addressed between the parties.
5. I therefore consider that the main issue is whether the surfacing and drainage requirements imposed by Condition 4 are necessary, relevant to the development and reasonable in all other respects, with regard to the effect of the development on the character and appearance of the area and the prevention of ground and water pollution.

Reasons

Character and appearance

6. Policy D9 of the 2009 Wakefield Development Policies Document (the DPD) and Policies CW9 and CW10 of the 2009 Central Wakefield Area Action Plan (the CWAAP) together seek to ensure that new development achieves a high standard and quality of design, and incorporates high quality landscaping and boundary treatments.
7. The appeal site has been surfaced using demolition arisings from the buildings previously on the site. Although the surface has been compacted, the material is unbound. The loose material has inevitably been moved around the site to some degree, especially near to the boundary fences, and this gives the site an untidy and unattractive appearance.
8. The appellant has drawn my attention to other car parks in the city centre with unbound surfaces which have not been hard surfaced, including those at Garden Street and Ings Road. I saw both at the time of my site visit, and neither in my view makes a positive contribution to the character or appearance of their surrounding area. While I do not know the circumstances in which their use and surfacing came into being, given their negative visual impact I do not consider that either should set any sort of precedent. The argument that rough surfaced car parks are prevalent on the edge of Leeds city centre is also one to which I attribute negligible weight, given that it refers to a location some 8 miles or so from the appeal site covered by a different local planning authority and planning policies.
9. The rough surfaced car parks I saw in Wakefield, including the appeal site, contrast unfavourably aesthetically when compared to other hard surfaced car

parks elsewhere in the city centre, including the small public car park across Rodney Yard from the appeal site. I also visited the car park at Rishworth Street to which the Council drew my attention, and which I understand is also a temporary facility. While I accept that surface car parks are generally unlikely to be considered particularly attractive features of an area, the Rishworth Street example demonstrates that a car park which has been hard surfaced and laid out in an orderly way can make at least a small positive contribution to the character and appearance of an area, even when it is intended to be a temporary use. On the other hand, those car parks surfaced with what is essentially loose rubble tend, as with the appeal site, to detract from the quality of the surrounding area.

10. The appellant has suggested that there are visual benefits arising from the site's use as a car park in its current condition compared to it being left semi-derelict. It is not clear to me however that a piece of land such as the appeal site is visually improved by being used as a car park rather than not being so used. On the whole I consider that the benefits arising from its use as a car park in its current condition are largely private ones accruing to the owner and operator of the site rather than in the general public interest.
11. Accordingly, I conclude that the use of the site as a car park in its current condition is harmful to the character and appearance of the area. The requirements imposed by Condition 4 are therefore necessary, relevant to the development and reasonable in all other respects to ensure that the development complies with Policy D9 of the DPD and Policies CW9 and CW10 of the CWAAP in this regard.

Drainage

12. Policy D20 of the DPD seeks to protect the environment including soils and watercourses from pollution, and requires developments to include measures which minimise emissions.
13. The appellant has provided a technical report¹ which argues that surface water percolates in a sustainable manner directly to the ground, and that at the time the report was prepared there had been no incident of run-off or flooding from the site. However, that is somewhat at odds with the supplementary drainage statement also provided² which indicates that the material underlying the site is unlikely to be suitable for the disposal of surface water using infiltration techniques.
14. This second report was provided in support of an alternative drainage and surfacing scheme proposed by the appellant as part of their appeal statement. For the reasons I have described in paragraph 2 above I do not consider that it would be appropriate for me to accept the alternative drainage scheme as the possible basis for an amended Condition 4. In any event, it does not follow that as there have been no incidents of run-off or flooding in the past there will be therefore be none in the future. The totality of the evidence before me indicates that there is a significant risk of ground and water pollution arising from the retention of the car park use in its current rough surfaced condition.

¹ ARP Associates 'Supplementary statement on drainage and car park surfacing for planning application No. 18/02809/FUL', June 2019

² Walker Ingram Associates 'Supplementary drainage statement application No. 18/02809/S7301', September 2019

15. The appellant has suggested that the cost of complying with the disputed condition would make the car park use unviable, although I note also that they agreed to the condition less than four months before applying to have it removed. The appellant has indicated that it would cost around £150,000 to install the surfacing and drainage required by the condition, but no information has been provided at all about the scheme's income against which costs would be offset. It is therefore not possible for me to give anything other than very limited weight to the viability of the development. For similar reasons, the fact that the planning permission is a temporary one does not reduce either the harm that it does to the appearance of the area, nor the risk of ground and water pollution arising from spillages of fuel or oil. I also note that there are several vacant potential development sites around Wakefield's city centre and, notwithstanding that the appeal site already has permission for a future housing and commercial development, there is a significant possibility that the site could remain in use as a car park for a longer period than anticipated by the original permission.
16. I therefore conclude that the use of the site as a car park in its current condition leads to an unacceptable risk of ground and water pollution. The surfacing and drainage requirements imposed by Condition 4 are therefore reasonable and necessary to ensure that the development complies with Policy D20 of the DPD and the requirements of the National Planning Policy Framework in this regard.

Other Matter

17. The appellant raised in their statement a number of concerns about the way the Council had dealt with their planning applications. These are unrelated to the planning merits of the appeal.

Conclusion

18. For the reasons given above, the appeal is dismissed.

M Cryan

Inspector