



Appeal Decision

Site visit made on 6 January 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/B5480/W/19/3238489

6 Salamons Way, Rainham, RM13 9UL

- 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 Mark Ferrari against the decision of the Council of the London Borough of Havering.
 - The application Ref P1542.18, dated 11 October 2018, was approved on 26 April 2019 and planning permission was granted subject to conditions.
 - The development permitted is part demolition of on-site buildings and the erection of single storey industrial building; change of use from Storage and Distribution (Class B8) to Sui Generis vehicle repair, storage and servicing, MOT testing and the sale of motor vehicle parts.
 - The conditions in dispute are No's 1 and 3. No 1 states that: "The proposed use shall be for a limited period only and shall expire on or before the 26th April 2022 where the use hereby permitted shall be discontinued" and Condition 3 states that "Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the temporary use hereby permitted shall be used only for the storage, repair and servicing of car parts and motor vehicles, MOT testing and the sale of motor vehicle parts. The site shall not be used for any other purpose whatsoever including any other sui generis use, unless otherwise agreed in writing by the Local Planning Authority."
 - The reasons given for the conditions are: To enable the Local Planning Authority to retain control; and: To restrict the use of the premises to one compatible with the surrounding area and to enable the Local Planning Authority to exercise control over any future use not forming part of this application, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.
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Decision

1. The appeal is allowed and planning permission is granted for part demolition of on-site buildings and the erection of single storey industrial building; change of use from Storage and Distribution (Class B8) to Sui Generis vehicle repair, storage and servicing, MOT testing and the sale of motor vehicle parts at 6 Salamons Way Rainham within the terms of application Ref, P1542.18, dated 11 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, KS1701637/10, KS1701637/11 Rev D, Planning Statement, Flood Risk Assessment, Appendices A, B, C, D, E, Design and Access Statement.

- 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use hereby permitted shall be used only for the storage, repair and servicing of car parts and motor vehicles, MOT testing and the sale of motor vehicle parts. The site shall not be used for any other purpose, unless otherwise approved in writing by the Local Planning Authority.
- 4) Prior to the implementation of this permission, a plan shall be submitted to and approved in writing by the local planning authority identifying the location of the external storage area within the site, for materials including the maximum height to which materials shall be stored, and the method of storage warehousing. The approved details shall be implemented before the development becomes operational and retained for the lifetime of the development.

Background and Main Issue

2. The site was previously used for purposes pursuant to B8 of the Use Classes Order. I also note that the site was the subject of an enforcement appeal¹ for an unauthorised change of use which entailed a motor vehicle dismantling yard, storage and selling of motor vehicles, and carrying out vehicle repairs within the site (Sui Generis). This planning appeal is a consequence of the planning decision made by the Council further to the Inspector's enforcement decision. The site therefore has an extant permission² to change its use from B8 use to a vehicle repair, storage and servicing, MOT testing and the sale of motor parts.
3. As part of that planning permission, Condition 1 was imposed to grant permission for a limited period of time with Condition 3 imposed to restrict the functions of the site to precisely those included within the description of the proposal.
4. The main issue is whether or not these conditions are reasonable and necessary in respect of the long-term future and functioning of the Strategic Industrial Location (SIL) in which the site is located.

Reasons

5. The main part of the appeal site contains corrugated metal workshops, a low-rise brick office, shipping containers and circulation space with evidence of discarded vehicle parts which gives it an untidy appearance from outside the site. One area associated with the site is used for racking and storage of various vehicle parts, tyres and dismantled cars, is distinctly separate from the rest of the site by metal palisade fencing and its own vehicular access.
6. The site is located within a SIL³ within the Rainham Employment Area as identified within the Council's Core Strategy and Development Control Policies Development Plan Document 2008 (CS & DCPDPD) of which, Policy DC9 seeks to safeguard land for employment uses. It is agreed by the Council that the approved use does not have a detrimental effect upon the interests of

¹ Appeal Reference APP/B5480/C/17/3169449

² Application reference P1542.18

³ Core Strategy and Development Control Policies Development Plan Document 2008 Chapter Places to Work Para. 1.10

safeguarding land for B1 (b) and (c), B2 and B8 uses, or upon the economy of the area and therefore accords with this Policy.

7. Furthermore, the Council accepts that the proposed industrial building would be an acceptable design feature in this area. The scheme would facilitate the removal of the existing office and workshop as well as a number of other containers apart from the two that have been identified on the approved plans. I see this as a positive means to visually improve the appearance of the appeal site and would accord with the aims of Policy DC61 of the CS & DCPDPD to improve the amenity and character of the area. I note the Council's comments that the site could become untidy, but there is no real evidence this is any more likely to occur than if the permitted development did not take place.
8. Turning to the Planning Practice Guidance (PPG) and the use of conditions, temporary permissions may be appropriate where it is expected that the planning circumstances will change in a particular way at the end of the period. The Council explains within their Statement of Case that their Proposals Map seeks to secure a more high-quality environment and a development as such is not appropriate as a longer-term prospect. In their view, a short-term permission would allow the Council control at a later date, and would not prejudice these future proposals.
9. However, I have not been provided with any substantive evidence regarding future development proposals for the area. For example, there are no specific plans or full details of emerging policies before me and a temporary permission would therefore not be reasonable. Furthermore, I have a duty to assess the proposal in accordance with the current development plan.
10. I am aware that no condition has been imposed by the Council to seek removal of the approved building once the permission expires. I am also aware that the building would have a permanence to it considering its construction consists of a solid concrete floor with metal cladding to the walls and roof.
11. I bear in mind the PPG's advice that it would be unreasonable to impose a condition seeking the buildings' demolition after a temporary period of time, and given a change of use of the land has been granted, the PPG also makes clear that that demolition is unlikely to relate fairly and reasonably to the development permitted. I give weight to the fact that there would be a financial outlay required by the appellant associated with the new building, and it would become superfluous once the permission expires.
12. There are no disputes raised by either parties over the wording of the original condition 3 save for the fact it restricts the use to a temporary basis, which I do not find to be reasonable in this case.
13. Therefore, taking account that the Council considers the proposal does not conflict with Policy in respect of safeguarding employment land, the absence of evidence to demonstrate there are future proposals for the site whereby this proposal would undermine, and the permanence of the approved building with reference to the PPG, I conclude that Condition 1 is not reasonable and necessary in respect of the long term future and functioning of the SIL, and the removal of it, together with the removal of the association with a temporary permission at Condition 3, would not conflict with the aims and objectives of Policy DC61 of the CS and DCPDPC.

Conditions

14. The PPG emphasise that clear and precise reasons must be given for the imposition of every condition.
15. The Council suggest a time limit condition is imposed to implement the permission within 3 years of the date of approval, and I concur with this as although a change of use has occurred, this specific permission has not been implemented. I have also considered the only other condition that is not in dispute, Condition 2 (development to accord with approved plans) and have re-applied this condition which also covers the materials to be used in the industrial building's construction. Condition 3 has been amended and re-imposed to remove the word '*temporary*'.
16. As part of this appeal process, additional conditions can be imposed provided they meet the tests of paragraph 56 of the Framework. In this regard I see it necessary to impose a condition to control the method of external storage of materials within the site. Therefore, a condition has been formulated to ensure the development would accord with the aims and objectives of policy DC61 of the CS & DCPDPD to improve the character of the area.

Other Matters

17. An objector to the proposal is concerned that there is a proliferation of MOT garages within the locality and this proposal would affect their own business. Competition in business is not a planning matter and their concern relating to vehicle road worthiness is not within my scope to comment on.

Conclusion

18. For the above reasons, I have removed Condition 1 and amended Condition 3 of the original permission and applied a new condition where relevant.
19. The appeal is therefore allowed.

Alison Scott

INSPECTOR