



Appeal Decision

Site visit made on 17 February 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2020

Appeal Ref: APP/Z2315/W/19/3240767

Land to the rear of 74-104 Gannow Lane, Burnley, Lancashire BB12 6QD

- 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 M Yousaf of Cross Construction Ltd against the decision of Burnley Borough Council.
 - The application Ref APP/2018/0599, dated 21 December 2018, was refused by notice dated 1 August 2019.
 - The development proposed is the erection of 5 no. light industrial units (Class B1(c)).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. With reference to the submitted location plan, I have made a minor correction to the address of the appeal site for reasons of accuracy.
3. The Council identified in its Statement of Case that two designated heritage assets were located next to the appeal site. These were not referenced in its decision refusing planning permission.
4. There is a statutory duty under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay special regard to preserving the setting of a listed building or preserving or enhancing the setting of a conservation area, respectively.
5. The appellant made no response to the Council's Statement of Case. However, given the statutory duty and the circumstances of this case, I invited the appellant to respond to this matter only. I have taken into account the representations made in determining this appeal.

Main Issues

6. The main issues are the effect of the proposed development on:
 - the living conditions of nearby occupiers, with particular regard to noise and disturbance
 - the character and appearance of the area, including the significance of designated heritage assets.

Reasons

7. The appeal site is a vacant and somewhat overgrown plot of land to the rear of a terrace of 2-storey dwellings and separated from them by an unsurfaced alleyway. A wire mesh fence forms the boundary between the appeal site and the alleyway. The site is located within the urban area of Burnley but is not allocated for a particular use in the development plan.
8. The proposed development would entail the erection of two L-shaped buildings to be used for light industrial purposes, together with an area of hardstanding to their front.

Living Conditions

9. A Class B1c) light industrial use is one *which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit*¹. No details of the proposed light industrial uses are provided, but a Class B1c) use would, self-evidently, not cause unacceptable harm to the occupiers of the residential terrace on Gannow Lane, in terms of noise and disturbance.
10. However, five separate light industrial units are proposed, each with their own requirements for deliveries and servicing, and with nine associated car parking spaces.
11. The site would be accessed by an existing surfaced area, to the east of 74 Gannow Lane, which also provides access to the rear alleyway by the terrace. The proposed buildings would be located towards the sides and rear of the site, leaving the remaining area to be used by cars and the delivery and servicing vehicles. This area would be separated from the alleyway to the rear of the terrace by the existing wire mesh fence.
12. The triangular-shaped turning area, shown on the submitted site plan, would mean that vehicles would need to reverse in order to change direction; many vans and lorries incorporate aural warning messages / tones to alert pedestrians when they reverse. Such sounds would add to noise and disturbance from the vehicles generally, including engine noise and the closure of doors. No indication of the likely numbers of vehicles visiting the five units on a typical working day has been provided.
13. When I visited the site in the late morning, it was generally quiet, with little significant noise from nearby roads. The proposed development would significantly increase vehicular movements to and from the site, many of which would be likely to be commercial vehicles, and some of which Heavy Goods Vehicles, with consequent impacts upon noise and disturbance. The scale, design and layout of the proposed development would noticeably increase noise and disturbance for the occupiers of the terrace.
14. The proposed hours of operation would prevent unacceptable noise disturbance before 08.00 and after 18.00 Monday to Friday, and before 08.00 and after 13.00 on Saturday, and at any time on Sunday or on a bank holiday; such matters could be controlled by means of a condition.

¹ Schedule, Part B, Class B1. Business, the Town and Country Planning (Use Classes) Order 1987, as amended

15. However, such a condition is predicated upon noise and disturbance levels being higher during the hours of operation than at other times. Whilst such a condition would reduce the likelihood of noise and disturbance affecting nearby occupiers, it would have no effect for large parts of the working day and a significant part of Saturday.
16. From the submitted evidence I am not satisfied that nearby occupiers would not be unacceptably affected by noise and disturbance during the hours of operation. During this time, people not in work, or working from their homes, could reasonably expect to be able to enjoy their properties, including by sitting-out or having their windows open.
17. No assessment of current or likely future vehicle noise levels during the hours of operation is in the evidence before me. Furthermore, no measures to limit vehicular noise and disturbance from the appeal site have been provided beyond the suggested restriction to the hours of operation.
18. For these reasons, the proposed development would adversely affect the living conditions of nearby occupiers, with particular regard to noise and disturbance. Consequently, it would conflict with Policy EMP3 (supporting employment development) contained in the Burnley Local Plan 2018 (BLP), and with Paragraphs 127 f) and 180 a) of the National Planning Policy Framework 2019 (the Framework), in this regard.

Character and appearance

19. The appeal site is somewhat overgrown with generally low-level scrub vegetation and is located between the residential terrace fronting onto Gannow Lane, and a steep, wooded embankment, which rises towards the M65 motorway. To the east is a landscaped area, forming part of a segregated pedestrian and cycle route to and from Burnley town centre. To the west is a 2-storey, detached stone building, No 108A, a Grade II listed building in the Burnley Canalside Conservation Area (BCCA). The building is set within its own grounds and is a short distance from the boundary with the appeal site.
20. The height and position of the proposed buildings means that they would not be prominent in views from much of Gannow Lane or from the M65. However, they would be readily visible from the curtilage and rear rooms of the nearby terrace, from the access roads to the side and rear of the terrace, and, from the landscaped area to the east.
21. The western building would accommodate three units, with a ridge height of some 4.4metres and a blank gable end facing towards the rear elevation of the residential terrace, a short distance from the alleyway. It would be somewhat larger than the eastern building, which would have a ridge height of some 4.2 metres, with a blank gable elevation facing towards the rear of the terrace, although at a somewhat further distance from the alleyway.
22. The buildings would be constructed from insulated cladding sheets above blockwork plinths. Each unit would include separate pedestrian and vehicular entrances but would have no windows. The two buildings would have a plain and functional appearance, which together with their design and massing, would be somewhat at odds with the predominantly residential character and appearance of the area.

23. Furthermore, the Government requires *great weight* should be given to the conservation of a designated heritage asset. The modern design and materials, together with the height, massing and position of the western building in particular, would detract from the setting of 108A Gannow Lane and this part of the BCCA, including by obstructing views from public areas to the east.
24. The proposed development would cause less than substantial harm to the significance of these designated heritage assets. Whilst it would provide employment, both during construction and future operations, this would be a largely private benefit for the employees. No public benefits of the proposed development have been suggested by the appellant. With reference to paragraph 196 of the Framework I am not satisfied that there are public benefits that would outweigh the less than substantial harm that I have identified.
25. For these reasons the proposed development would adversely affect the character and appearance of the area, including the significance of designated heritage assets. It would therefore conflict with Policies EMP3 and SP5 (development quality and sustainability) of the BLP and with paragraphs 193-4 and 196 of the Framework.

Other Matters

26. I note that the Highway Authority has objected to the proposals regarding the adequacy of the access arrangements, but that the Council considers these matters could be addressed by planning conditions. I am not certain that the objections could be resolved in this manner and were I minded to allow the appeal, then I would need to consider this matter further. However, as I am dismissing the appeal for other reasons, there is no need for me to do so in this case.

Conclusion

27. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR