



Appeal Decision

Site visit made on 23 January 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/E2001/W/19/3238249

10 A, North Moor Lane South, Cottingham HU16 4JH

- 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 Michael Godfrey against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/00458/PLF, dated 8 February 2019, was refused by notice dated 23 August 2019.
 - The development proposed is: Change of use from part of the site from wholesale & retail unit to light vehicle repairs (mechanical only). The area within the blue border on the location plan is unaffected and will remain for parking only for which permission is already granted. The area within 'the red border on the location plan is the area to which the change of use from retail to vehicle repairs is sought. Please note that the previous internal building amendments were never carried out therefore the existing internal plan may differ from the plan you may have on record. In essence the internals of the building are as per the vehicle repairs layout and were never changed to the retail (proposed) layout.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have included the full description of the proposal, taken from the application form, in the banner. The Council states that a previous planning permission for the use of the premises for wholesale and retail purposes was not commenced and that the permission for that use has now lapsed. The appellant states that what is proposed is change of use from a coach depot to light vehicle repairs and I have proceeded on that basis.

Main Issues

3. These are the effect of the proposed use of the property for light vehicle repairs on:
 - The living conditions of the occupiers of dwellings adjacent to the site in respect of noise and disturbance: and
 - The character and appearance of the area.

Reasons

Background

4. The appeal property (the property) is situated on the edge of Cottingham, to the rear of North Moor Lane. Access to the site from the lane is gained across an area of hardstanding between Northmoor Garage and what appears to be a large garage, no 8a. Residential properties at nos 10, 12 and 14 North Moor Lane abut the boundary with the site. To the rear of the site there is open countryside.
5. The property comprises a large modern commercial building with 3 roller shutter doors which face on to a hard surfaced yard area. The Council does not dispute that the property could be brought back into use as a coach repair, storage and operating centre without the need for planning permission although no application has been made for a Lawful Development Certificate.

Living Conditions

6. The property is situated in close proximity to the houses at nos 10, 12 and 14. Whilst the dwellings have high hedges to the rear and a high timber fence I have no evidence before me to suggest that the presence of either would be an effective measure for the mitigation of noise from within the yard, or from within the building if the roller shutter doors are open. In the case of no 10, its side elevation and a short section of its side garden fence would face onto the access to the site.
7. The proposal is that the yard area to the side of the building facing the houses would not be used, but rather that on the opposite side of the building, facing open countryside. However, the roller shutter doors are to the front of the building, which suggests that it would be difficult to avoid some activity related to the vehicle repairs from the side closest to the houses. Whilst it could be possible to attach a planning condition to a consent requiring the doors be kept closed whilst working on vehicles, it is likely that such a condition would be difficult to enforce as there will be times when the doors will need to be open to permit vehicles to enter and leave the garage, whilst at the same time repairs to other vehicles could be ongoing.
8. Given the above it is very likely that the proposal will give rise to some noise and disturbance which will affect the living conditions nearby residents, in particular those at nos 10, 12 and 14. This disturbance could be expected to arise from the parking and manoeuvring of vehicles, slamming of car doors and bonnets, the testing of engines, hammering, and also the playing of radios, all of which would be typical of a garage use. The suggestion in the planning officer report is that whilst these matters may be of concern, such problems would be no greater than could arise under the permitted use as a coach depot.
9. The proposition that the permitted coach depot use could, if resumed, lead to significant levels of disturbance is reasonable. However, for the permitted use to be regarded to be regarded as a fallback position which forms a material consideration in the appeal, there must be a more than a theoretical proposition that it could happen. The Council suggests that this is not the case since the former use of the site ceased because the planning conditions proved too difficult and impractical for the coach operator. The appellant himself states that he fears that whilst he may gain a permission, the conditions will be so

onerous as to deter prospective tenants. I am therefore not persuaded that the permitted use provides a tenable fallback position and give this matter limited weight in my decision.

10. It has been suggested that the operation of the site, taken cumulatively with the adjacent existing car repair garage, would exacerbate the problems of noise and disturbance for local residents, including the levels of traffic on local roads. I have insufficient evidence before me to substantiate the point, and in any event the effects that would be experienced by nearby residents under the proposal alone, due to the proximity of the property to houses, would give rise to significant harm.
11. I therefore conclude the proposal would harm the living conditions of the occupiers of dwellings adjacent to the site, and therefore would not conform with policy ENV1 of the East Riding Local Plan Strategy Document¹ (ERLP) which requires that proposals should have regard to the amenity of existing properties, and the Framework² which similarly seeks to ensure that development creates places with a high standard of amenity for existing and future users.

The character and appearance of the area

12. The property presently forms an incursion of built development into the area of countryside lying to the south of North Moor Lane. However due to the presence of trees and hedgerows within the area to the south it does not form an obtrusive feature. Potentially, some of the existing tree planting could be removed without further consent, and therefore it is possible that the visibility of the site from the land to the south of the site could increase in the future, including the area to the south of the building which would be used for the parking and manoeuvring of vehicles.
13. The area of countryside is designated as a key open area in the ERLP³ in order to retain the individual identity of settlements and prevent coalescence. However, the proposal would not involve any changes to the physical appearance of the building, or expansion of its boundaries into the area of countryside. The retention of existing planting could be addressed via an appropriate planning condition. Accordingly, any effect on the character and appearance of the area would be limited and unlikely to affect the countryside setting of the settlement to a significant extent.
14. I therefore conclude that the proposal would not harm the character and appearance of the area, and would conform with Policies ENV1, S4 and EC1 of the ERLP, which, amongst other things, require that development should have regard to the wider context, the character of the surrounding area and landscape, and the Framework which recognises that in rural areas it may be necessary to look to sites adjacent to or beyond existing settlements where development will be sensitive to its surroundings, and which encourages the use of sites well related to existing settlements for economic purposes where they are sympathetic to local character and contribute to and enhance the local environment.

¹ Adopted 2016

² National Planning Policy Framework February 2019

³ Key Open Areas are identified under Policies ENV2 and A1 although these policies do not form part of the Council's reasons for refusal.

Planning Balance

15. The proposal would bring benefits through the creation of local employment and by bringing a vacant building back into use. These are significant positive factors. However, no evidence has been brought forward that there are no other opportunities in the local area to provide such premises for such business activity. I therefore give moderate weight to these benefits.
16. The absence of harm to the character and appearance of the area is a neutral factor in the planning balance.
17. However, I have found that the proposal would give rise to harm to the occupiers of dwellings close to the site. This is a matter to which I must give very significant weight in the planning balance, as both the ERLP and the Framework require that development should not give rise to such effects. This harm to living conditions weighs decisively against the proposal.

Conclusion

18. For the reasons given the appeal is dismissed.

Tim Wheeler

INSPECTOR