
Appeal Decision

Site visit made on 17 December 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/F1040/W/19/3239004

The Castle Way, Willington, Derbyshire DE65 6BW

- 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 Ben Golding of G. D Golding Skip Hire against the decision of South Derbyshire District Council.
 - The application Ref 9/2019/0583, dated 24 May 2019, was refused by notice dated 7 August 2019.
 - The development proposed is development of a B1(c)/B8 unit.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 5 February 2020.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a light industrial and storage and distribution unit (use classes B1(c) and B8) at The Castle Way, Willington, Derbyshire DE65 6BW in accordance with the terms of the application, Ref 9/2019/0583, dated 25 May 2019, subject to the following conditions in the attached schedule.

Preliminary Matters

2. The description of development given in the appeal form differs slightly from that on the original application. I have used the revised description in my formal decision above as it provides a full and accurate description of the development.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal relates to part of a predominantly vacant and cleared plot. Planning permission exists on an adjacent part of the wider site for a skip hire business. This did not appear to be operational at the time of my visit. The wider site also contains a water pumping station. The site sits at the junction between The Castle Way and A38 dual carriageway which continues along the western boundary of the site. The Castle Way runs to the north and east. The A5132 runs to the south. On the opposite corner to the site is a petrol filling station and a diner. A short row of semi-detached and detached dwellings run

from the petrol station along The Castle Way. These are well separated from any other dwellings and the start of the main built form of Willington.

5. On the opposite side of the dual carriageway is another petrol filling station and, directly opposite the site, is a car auctioneer. This contains a large commercial building set back from the road and a substantial area of hardstanding where cars are prominently stored.
6. Although set in a wider context of open countryside, the area around the highway junction has a distinctly different character. The site itself is physically and visually contained by roads and landscaping, with little visibility from medium and longer distances. The site is clearly separate and distinct from open fields which characterise the area beyond the junction and toward Willington. As such, the site does not make a positive contribution to the rural open countryside character of the wider area.
7. The building would be located at the western end of the site, nearest to the dual carriageway. Due to its height, it would be visible on the approaches to the A38 along The Castle Way and from some nearby dwellings. There would also be fleeting views from passing traffic along the A38, including through gaps in the landscaping. However, the building would generally be seen in the context of the road infrastructure around the site and the nearby commercial uses. I am also mindful of the permission which exists on the remainder of the site for another form of commercial activity. The implementation of this would also alter the character and appearance of the site to some extent.
8. The development would be of a simple functional design typical of many buildings of this type of use. It would also differ in design to other buildings in the vicinity of the site. Nevertheless, this does not mean it would be harmful to local character in principle. The other commercial buildings are similarly of simple designs which reflect their functions. In this context, and having regard to the immediate character of the area, I am satisfied that a building of this use and design would not be incongruous in this location.
9. The tightly constrained and self-contained nature of the site within the road network also ensures that any visual impact would be localised in nature. Further mitigation could also be secured by condition for additional landscaping. As a result, I consider that the impact on the wider countryside character of the area would be minimal.
10. In coming to this conclusion, I have had regard to the effect on the private views of nearby residents. The appearance of the site would undoubtedly change. However, change does not always equate to harm. Similarly, being able to see a building does not mean it is unacceptable in principle. Overall, I am satisfied that the development would not result in unacceptable harm to the character and appearance of the area. Accordingly, there would be no conflict with Policy BNE1 of the South Derbyshire Local Plan – Part 1 (LP1)(2016), the South Derbyshire Design Guide (2017) or paragraph 127 of the National Planning Policy Framework. These seek, amongst other things, to ensure all development is well designed and responds to local context.

Other Matters

11. The development would utilise the existing access into the site. There would clearly be some intensification in the use of this access, but no objections were

raised by the Council, the Highway Authority or Highways England. I consider this to be a material consideration of significant importance. There is good visibility in both directions from the access and sufficient distance between the site entrance and the junction with the A38 to ensure there should be no undue risk.

12. I have noted the concerns and evidence provided by local residents. However, there is nothing to suggest that any accidents referred to related to the use of the existing access to the site or that the junction with the A38 is inherently unsafe. There is therefore no substantive evidence to suggest the development would lead to unacceptable safety risks.
13. The Highway Authority's concerns over pedestrian safety were addressed through the submission of revised plans during the consideration of the application. I therefore have no concerns over pedestrian safety.
14. The Council raised no objections on the grounds of noise or disturbance. I have seen nothing that would lead me to a different conclusion. Uses within the B1 use class are those which can be carried out in a residential area without detriment to its amenity. The Council has also suggested conditions on the hours of operation for the units if in B8 use. This should provide a degree of comfort. The development would likely lead to an increase in comings and goings and use of the access. However, it is likely that any additional noise from this source would be subsumed within existing noise levels associated with the A38 and other passing traffic. With appropriate conditions in place, I am not therefore persuaded that the development would result in a harmful increase in noise or disturbance.
15. The development would be a sufficient distance from any dwelling to ensure it would not have an overbearing impact on outlook. For the same reason, there would be no tangible impacts on privacy or on daylight or sunlight. I have noted Highways England's comments in relation to drainage matters. These can be adequately addressed by condition. There is no other substantive evidence to suggest the site would be affected by flooding or that the development would cause or exacerbate problems elsewhere. In addition, there is no reason to assume that the operation of the units would result in harm in terms of air pollution.
16. I note from the officer report that the Council concluded the development would not be fully compliant with policies E2 and E7 of LP1. These control the location of employment related development in the countryside. The development would not meet the specific locational requirements of Policy E2. Although I am satisfied that criteria ii) – v) of Policy E7 are met, a specific business case for the development has not been submitted. There is therefore some conflict with this policy. Notwithstanding this, I am mindful that the Council did not object to the development on locational grounds and neither Policy E2 nor Policy E7 appear on the decision notice.
17. The appellant has submitted evidence, undisputed by the Council, which suggests there is a need for additional employment uses in the area. The development would help to meet this need. It would also provide additional job opportunities in the rural area. There would therefore be clear economic and social benefits associated with the development. On balance, I therefore concur with the view that the benefits of development, and lack of any

additional harm, are sufficient to outweigh any conflict with policies E2 and E7 that may exist.

18. A number of concerns raised by residents relate to the earlier permission for the skip hire business and are thus outside the scope of this appeal.

Conditions

19. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
20. I have imposed conditions requiring the approval of materials and a landscaping scheme in the interests of the character and appearance of the area. For the same reason, I have also imposed a condition limiting the height at which goods might be stored. In light of the reasons given for the condition, I have amended the suggested wording to make it clear that this relates only to areas outside the building.
21. I have imposed a condition requiring the laying out of the parking and manoeuvring spaces in the interests of highway safety. I have amended the suggested wording to remove unnecessary reference to the General Permitted Development Order. I have imposed the suggested condition limiting the operation of any B8 unit in the interests of the living conditions of nearby residents.
22. A condition is necessary to require the approval of a scheme to address surface water drainage. This is by necessity a pre-commencement condition to ensure the development is carried out in accordance with the approved details. The appellant has confirmed their acceptance of this condition. I have amended the Council's suggested wording to remove reference to Highways England. It is not necessary for the condition to refer to this organisation.
23. I have not imposed a condition removing permitted development rights to use the building for any other purpose. Considering the changes of use allowed under such rights, I do not consider that sufficient evidence has been provided to demonstrate that such a condition would be necessary.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of 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: VC0034 101 Rev B, C9881.PL.200, C9881.PL.120 Rev D.
- 3) Prior to their incorporation into the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed using the approved facing materials.
- 4) Prior to the occupation of the unit a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the unit or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period.
- 5) Prior to the occupation of the building hereby permitted the parking and manoeuvring area shall be laid out in accordance with the approved plans and such spaces shall be maintained throughout the life of the development free of any impediment to their designated use as such.
- 6) No items/materials/containers shall be stored at a height greater than 2 metres above current ground level in any part of the site outside the building hereby permitted.
- 7) Any B8 operated from the building hereby approved shall not take place other than between 0700 and 2200 Mondays to Fridays, and between 0800 and 1300 on Saturdays, Sundays, public holidays and bank holidays.
- 8) No laying of services, creation of hard surfaces or erection of a building shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out and maintained thereafter in conformity with the approved details.