



Appeal Decision

Site visit made on 18 May 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/N4720/W/19/3244527

24 Waterloo Mills, Waterloo Road, Pudsey, West Yorkshire LS28 8DJ

- 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 Jack Marston against the decision of Leeds City Council.
 - The application Ref 19/03062/FU, dated 16 May 2019, was refused by notice dated 31 July 2019.
 - The development proposed is a hardstanding area for parking and enclosed dog exercising facility.
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Decision

1. The appeal is allowed. Planning permission is granted for a hardstanding area for parking and enclosed dog exercising facility at 24 Waterloo Mills, Waterloo Road, Pudsey, West Yorkshire LS28 8DJ in accordance with the terms of the application, Ref 19/03062/FU, dated 16 May 2019 subject to the following conditions:

- 1) The hardstanding hereby permitted shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

i) Within 3 months of the date of this decision a scheme of surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime

of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.

ii) If within 10 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The dog walking and exercise area shall be used between the hours of 10:30 - 11:30 and 13:30-14:30 Monday to Friday only.
- 3) A maximum of six dogs shall be walked or exercised within the walking and exercise area at any one time.

Procedural Matters

2. The description of the proposal on the decision notice varies from that on the planning application form. I have used that from the application form as it satisfactorily describes the development proposed.
3. The evidence indicates that the site has been used as a dog walking and exercise area for a number of years. Areas of hardstanding are already in place at the site.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of Lordswood Grange and Wellington Grove with particular regard to noise.

Reasons

5. The appeal site forms a parcel of land which sits immediately to the south west of Waterloo Mills which is a complex of commercial/industrial buildings. Residential property is located to the north west on Lordswood Grange and to the south east on Wellington Grove. The land is essentially in two sections. The larger section immediately adjacent to Waterloo Mills has been provided with some hardstanding and appeared to be used for the storage of vehicles. The second section at the southern end of the site is fenced off. It incorporates a further area of hardstanding and the dog walking and exercise area which is laid to grass.

6. It is accepted that noise from barking dogs is intrusive and that incidents of barking could increase when dogs from separate households are exercised together on the site.
7. Properties on Lordswood Grange and Wellington Grove sit in reasonably close proximity to the site. However, I must also have regard to the close proximity of these properties to Waterloo Mills and its variety of commercial and industrial uses.
8. I also noted a strip of land which provides some degree of separation between this site and the end of the rear gardens on Lordswood Grange. This land contains some tree planting, which although currently immature, is likely to establish further with time to offer some screening. Thick vegetation already separates the southern end of the site from the gardens of properties on Wellington Grove providing some separation on this side of the site.
9. Further, the evidence indicates that the site has been used for dog walking and exercise for a number of years. It does not indicate that any formal complaint has been made against the use of the site, which may have been expected if incidences of noise have been causing significant harm to the living conditions of nearby occupiers. The evidence also indicates that the dog walking and exercise area is only used for a very limited number of hours between 10:30 - 11:30 and 13:30-14:30 on a weekday and by a maximum of six dogs at any one time. The use of the site between these hours, and for a limited number of dogs will have significantly limited the impact of the use on the living conditions of nearby occupiers.
10. I am not persuaded that nuisance associated with urine or faeces would be significant given the number of dogs that use the site or the limited hours that they are present. Although only a snapshot in time, during my visit the site was in good condition. I have no reason to consider that the site would not continue to be appropriately managed.
11. Therefore, I conclude on this matter that the proposal would not have an unacceptable adverse impact on the living conditions of the occupiers of Lordswood Grange and Wellington Grove with regard to noise and would therefore not conflict with Saved Policy GP5 of the Leeds Local Development Framework Core Strategy (2014) (LDFCS) which amongst other things states that proposals should seek to avoid problems of environmental intrusion and loss of amenity.
12. I also find that the proposal does not conflict with Policies SP1, P10 and T2 of the Leeds Local Development Framework Core Strategy (2014) which amongst other things, seek to direct development to urban areas that are accessible.

Other Matters

13. Some concern has been raised in relation to the hardstanding that has been provided at the site. The evidence in relation to its exact construction and drainage arrangements is limited. However, a relatively large area of hardstanding appears to have been provided across a significant proportion of the overall site.
14. The land has a prominent slope downwards towards the commercial and industrial premises at Waterloo Mills. The evidence indicates that the majority of the site was previously grassed. The provision of any hardstanding, or more

formalised surface, is therefore likely to have led to an increase in surface water run-off. The council within their report have suggested that this matter could be dealt with via condition, and I have no reason to disagree.

15. Therefore, I conclude on this matter that appropriate provision for drainage could be made within the proposal and it would not therefore conflict with Saved Policy GP5 of the LDFCS which amongst other things states that development proposals should resolve detailed considerations such as drainage.

Conditions

16. The purpose of condition 1 is to require the appellant to comply with a timetable for dealing with the provision of surface water drainage which needs to be addressed in order to make the development acceptable.
17. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission for the hardstanding area for parking falls away.
18. Conditions two and three would significantly limit levels of use of the site to those that the evidence indicates currently exist. They are required in the interests of the living conditions of the occupiers of nearby properties on Lordswood Grange and Wellington Grove.

Conclusion

19. For the reasons set out above, the appeal should be allowed.

T J Burnham

INSPECTOR