



Appeal Decision

Site visit made on 20 May 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2020

Appeal Ref: APP/D4635/W/20/3244674

Aldersley Garage, Aldersley Road, Wolverhampton WV6 9NB

- 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 D Willis (Willis Joint Stock Ltd) against the decision of Wolverhampton City Council.
 - The application Ref 18/01279/FUL, dated 15 October 2018, was refused by notice dated 2 December 2019.
 - The development proposed is the demolition of existing building and erection of new B2/B8 unit with ancillary office accommodation, external yard and parking areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon (i) the character and appearance of the area, (ii) the living conditions of nearby residents with particular reference to noise and disturbance and of the occupiers of 256 Aldersley Road with particular reference to outlook and (iii) whether adequate provisions would be made for service and delivery vehicles.

Reasons

Character and appearance

3. The appeal site sits within a gap in a residential frontage that runs along Aldersley Road. The dwellings closest to the appeal site on this side of the road are set back from the public highway which gives the area surrounding the site a spacious feel. To the rear of the site is a former railway line which is elevated and densely covered with mature vegetation, creating a pleasant natural environment in views taken across the site. Adjoining that is a large area of publicly accessible open space and these areas collectively form Smestow Valley Park. The gap in the residential frontage which the appeal site provides allows the natural environment to the rear of the site to make a positive contribution to the character and appearance of the area.
4. The proposed building would be of a substantial scale, both in terms of its width and its height and it would form a dominant visual feature in the street scene. Due to its size and its positioning within an exclusively residential frontage, and against the backdrop of the natural environment to the rear, the proposed building would visually jar with its surroundings. Furthermore, the Noise Impact Assessment (NIA) submitted indicates that the proposed development would necessitate the erection of an acoustic fence to the front

and side boundaries. I have no information before me to suggest what height the acoustic fence would be, but even at a relatively modest height it would have an impact in industrialising the character and appearance of the appeal site. Collectively, these reasons mean that the proposed development would cause significant harm to the character and appearance of the area.

5. Whilst there was previously a building located on the site which operated as a non-residential use, the information provided with the appeal demonstrates this building was substantially smaller in scale, and in particular in height, than the one which is subject of this appeal. On this basis, the visual impact of the previous building on the natural environment beyond the site and the character and appearance of the area in general does not appear to be comparable to that which would result from the appeal proposal.
6. The appellant has drawn attention to the design of the proposed building and to amendments to its height and its external facing materials which have been made in order to attempt to address the concerns that have been raised by the Council. The appellant considers that any additional changes considered necessary to the external facing materials could be secured by way of a planning condition. However, this would not overcome the significant harm that would be caused to the character and appearance of the area by the proposed development as a whole.
7. I therefore conclude that the proposal would cause significant harm to the character and appearance of the area by reason of the scale of the proposed building and the visual impact of the proposed development. The proposal would therefore fail to accord with Policies CSP4 and ENV3 of the Black Country Core Strategy 2011 (CS), Saved Policies D7, D8 and D9 of the Wolverhampton Unitary Development Plan 2006 (UDP) and Policy TNP14 Part A of the Neighbourhood Plan for the Tettenhall Wards 2014, all of which seek to safeguard character and appearance.

Living conditions

8. The proposed use of the development has the potential to generate noise levels which would adversely impact upon the living conditions of nearby residents. The NIA submitted by the appellant identifies that road traffic noise from Aldersley Road is currently the dominant noise source in this locality and based upon my observations during my site visit I have no reason to dispute this. However, the impact of this noise source lessens in locations further away from the road, and this was noticeably the case when stood on the two access roads leading from Aldersley Road, close to the rear elevations and gardens of the nearest dwellings to the site. It is therefore likely that the rear areas of the dwellings on Aldersley Road experience lower levels of noise than their front elevations do, in particular as their rear elevations face towards dense mature vegetation and the elevated former railway line.
9. The NIA only takes readings from locations close to Aldersley Road and therefore there is no data available regarding the likely existing noise levels further away from the road and any impact that the proposed development would be likely to have upon these current levels. There is therefore inadequate evidence to demonstrate that no harm would arise to the living conditions of nearby residents as a result of the proposal. Whilst the appellant considers that matters relating to noise and disturbance could be addressed by planning conditions and they point to the Council's suggested suite of

conditions should the appeal be successful, the NIA does not provide data on which to establish a noise level figure that would be appropriate to ensure that the proposed development would not cause harm to the most sensitive areas of the adjacent dwellings, these being their rear gardens and elevations.

10. The Council's suggested conditions do make reference to existing background sound levels at residential premises and to the submission of an updated noise assessment tied to these, but there is no certainty as to what these levels are or that they could be met. In particular, the NIA states that further work needs to be undertaken on sound insulation for the building and no details of the height of the necessary acoustic fence have been provided, which are needed to allow for a full assessment of the impact upon character and appearance that the fence would have. This raises the possibility that the background sound levels specified in the Council's condition might ultimately not be achievable and would therefore effectively nullify any permission given, meaning that such a condition could not be satisfied and that it would be unreasonable.
11. Furthermore, no assessment has been undertaken as to the impacts that external activities at the site would have and how, if it was required, they could be addressed. The Council's suggested conditions to an extent seek to address such concerns in addition to preventing noise emanating from the building, but they are numerous and, in some respects, onerous in their scope. These too could present an impediment to the use of the site and render it unworkable for the purposes for which it had been approved. Therefore, with regard to the suggested conditions taken as a whole, I am not persuaded that their imposition would meet the tests set out by Paragraph 55 of The National Planning Policy Framework (The Framework).
12. The Council's appeal statement expands on their concerns stated on the decision notice, and they refer to impacts arising from dust, fumes and odour. However, they have not provided detailed evidence in this respect to substantiate their position and therefore I have no basis to conclude whether harm would arise in these respects. The appellant states that the Council has statutory powers to address noise nuisance, aside from considerations set out by the planning system. However, this does not justify a development that would cause harm in planning terms.
13. The Council also raises specific concerns as to the impact upon the outlook from No 256 that would arise from the scale, massing and positioning of the proposed development. However, this dwelling has extensive flat roofed extensions to its side and rear, which run immediately adjacent to its common boundary with the adjacent access road. The width of this access road would also provide separation between the dwelling and the proposed building. There are windows at first floor level in its rear elevation but these do not face towards the appeal site and would offer only oblique views of it. Given the positioning of the extensions and windows to No 256, together with the width of the access track, the proposed building would not cause harm to the living conditions of the occupiers of No 256 from a loss of outlook from either the dwelling itself or its rear garden area.
14. For these reasons I conclude that it has not been demonstrated that the proposed development could be undertaken without causing harm to the living conditions of nearby residents from noise and disturbance. The proposal would

therefore fail to accord with Policy EP1 of the UDP, which requires it to be shown that no material adverse impact would arise upon living conditions. With specific regard to the impact upon No 256, as I have not found that harm would arise to the living conditions of the occupiers of this property, there would be no conflict with Saved Policies D7 and D8 of the UDP, where they seek to protect living conditions.

Provisions for service and delivery vehicles

15. The proposed access point to the site is conjoined to the access to the public open space, and vehicles reversing out of the site would cause conflict with pedestrians in this area, as well as causing a hazard to traffic as they backed onto Aldersley Road. Furthermore, no evidence has been provided to demonstrate that the servicing requirements of the development could be met on the appeal site. In this respect too, any loading or deliveries made outside of the site would be highly likely to cause conflict with users of the public highway.
16. The appellant's appeal submission refers to a swept path drawing that has been commissioned to demonstrate that part of the Council's reason for refusal can be overcome. Whilst a copy of this plan has not been provided with the appeal documentation, in any event it would not have been subject to formal consultation with interested parties, including with the Highway Authority.
17. In conclusion, insufficient information has been provided to demonstrate that adequate provisions would be made for service and delivery vehicles in a way that would not cause harm to other users of the public highway and the adjoining access to the public open space. The absence of such provisions would mean that the proposal would conflict with Policy CSP4 of the CS and Saved Policy AM12 of the UDP, where they seek to ensure that the design of new development safeguards the interests of all users of the public highway.

Other Matters

18. The appellant considers that the proposal would represent a highly sustainable form of development which would achieve an efficient use of currently under-utilised land and bring back into use a derelict employment site, making a positive contribution to the local economy and addressing current anti-social behaviour issues the site experiences. Whilst these considerations collectively offer some support for the proposed development, they do not outweigh the clear harm that I have identified.
19. The appellant also makes reference to the presumption in favour of sustainable development that is set out in The Framework and specifically to paragraph 11d)ii). However, they have provided no evidence to demonstrate that paragraph d) should be engaged in this instance. Furthermore, the proposed development would not accord with the objectives of The Framework which seek to achieve well-designed places, to prevent the local environment from being adversely affected by noise pollution and to safeguard highway safety.

Conclusion

20. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wraight INSPECTOR