The Planning Inspectorate

Appeal Decision

Site visit made on 4 August 2020

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2020

Appeal Ref: APP/A0665/W/20/3248519
Northwich Metals, Ollershaw Lane, Marston, Northwich CW9 6ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Jonathan Yoxall against the decision of Cheshire West and Chester Council.
- The application Ref 18/04713/FUL, dated 4 December 2018, was approved on 15 November 2019 and planning permission was granted subject to conditions.
- The development permitted is temporary change of use from scrap metal yard to caravan and general storage.
- The conditions in dispute are Nos 1 and 5 which state:
  1. The use hereby permitted shall be discontinued on or before 15 November 2020. For the avoidance of doubt, all previous conditions relating to planning permission 15/02226/S73 shall apply following the cessation of the use.
  5. All vehicle movements associated with the use hereby approved shall be via Cart Lane and no associated movements shall be via The Avenue.
- The reasons given for the conditions are:
  1. To enable the Local Planning Authority to review the position in the light of circumstances appertaining at that time.
  5. In the interest of residential amenity.

Decision

1. The appeal is allowed and the planning permission Ref 18/04713/FUL for a temporary change of use from scrap metal yard to caravan and general storage at Northwich Metals, Ollershaw Lane, Marston, Northwich CW9 6ES granted on 15 November 2019 by Cheshire West and Chester Council, is varied by deleting conditions 1 and 5, and substituting condition 1 with the following condition:

   1) The use hereby permitted shall be discontinued on or before 15 November 2022.

Procedural Matter

2. In substituting condition No 1, I have removed "*For the avoidance of doubt, all previous conditions relating to planning permission 15/02226/S73 shall apply following the cessation of the use".* This is because it is not necessary nor relevant to the development to be permitted and thus does not meet the tests set out in the National Planning Policy Framework (the Framework).

Main Issues

3. These are:

   (a) the effect of varying condition No 1 from one to 3 years, and thus the Council's ability to review the effect of the development; and,

(b) the effect of the development on the living conditions of nearby residents.

Reasons

Condition No 1 - Length of permission

4. The planning permission granted by the Council gave temporary planning permission for one year. Even considering that the use has been carried out since 2018, owing to the seasonal nature of caravan storage (which may change annually depending upon various circumstances, for example weather conditions) and particularly given the current pandemic situation, a one year permission does not provide adequate time to assess the effect of the use.

5. The appellant requested 3 years temporary permission to give sufficient time to evaluate the new business, following the change from a scrap yard. This would be a reasonable and proportionate amount of time.

6. Therefore, a temporary permission length of one year is unreasonable, and the condition does not comply with the tests set out in the Framework. A substitution of the condition to enable 3 years temporary permission is appropriate.

Condition No 5 - Access

7. The site can be accessed via 2 roads, The Avenue and Cart Lane. Both access roads are private and unadopted. The appellant's submission documents include a brief transport statement which sets out that access to the site is taken from The Avenue, and there are around 4 movements per day during peak periods, but much reduced during winter. By imposing condition No 5, the Council restricted access to the site using Cart Lane only.

8. Whilst there are more residential properties on The Avenue than on Cart Lane, there are a very low amount of movements associated with the use, which is undisputed by the Council. Accordingly, whilst use of The Avenue for access to the site may be inconvenient for some residents, it would not cause a significant adverse impact on health and quality of life.

9. Therefore, the condition is unnecessary, and its removal would cause no material harm to the living conditions of nearby residents, compliant with Policy SOC5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (January 2015). This policy seeks to meet the health and well-being needs of the residents.

Other Matters

10. I have had careful regard to the submissions by interested persons. However, I am only able to consider the disputed conditions that are the subject of the appeal and this appeal decision is not a complete re-consideration of the original application.

11. That said, despite neighbouring assertions, there is little substantive evidence to suggest any highway safety concerns associated with the proposal, nor does the Council have any highways safety objections. The traffic management plan for a previous planning permission is unrelated to the development before me and has no bearing upon it. Legal rights of access, ownership and maintenance issues are private matters between landowners.

Conclusion

12. For the reasons given, I conclude that the appeal should be allowed in the terms set out above.

Katie McDonald

INSPECTOR