



Appeal Decision

Site visit made on 17 August 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2020

Appeal Ref: APP/P4605/W/20/3252639

Former Westley Garage (Unit 1), Rear of 32 Station Road, Acocks Green Birmingham B27 6DN

- 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 Stuart Hatton (Umberslade Securities Limited) against the decision of Birmingham City Council.
 - The application Ref 2020/00503/PA, dated 20 January 2020, was refused by notice dated 21 April 2020.
 - The development proposed is described as retrospective application for the demolition of B2 single storey workshops, partial change of use from B2 and D2 use to B8 and D2 use and temporary installation of shipping containers to create a B8 self storage facility.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of B2 single storey workshops, partial change of use from B2 and D2 use to B8 and D2 use and temporary installation of shipping containers to create a B8 self storage facility at Former Westley Garage (Unit 1), Rear of 32 Station Road, Acocks Green Birmingham B27 6DN in accordance with the terms of the application, Ref 2020/00503/PA, dated 20 January 2020, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The site address above is taken from the application form although I have amended the postcode as that provided is incorrect. The description of the development in the header above is taken from the application form. I have changed the description in my decision to omit the words 'retrospective application' as these do not describe an act of development. No party would be caused injustice by this slight amendment.
3. On my visit I saw the demolition element of the development has been completed. Also, shipping containers were positioned on parts of the site although not entirely as shown on the appeal plans. The fire escape staircase, gates and fences have been erected as indicated on the drawings. As such, I have determined the appeal on the basis the development has commenced.

Main Issues

4. The main issues are (i) the effect on the character and appearance of the area, (ii) the effect on the living conditions of occupiers of nearby residences in respect of privacy, and (iii) whether the development includes adequate surface water drainage.

Reasons

Character and appearance

5. While the workshops have been demolished, the remaining gym building on the site is of a typical factory or warehouse appearance. The area has a mixed character with residences, shops, a church, a car repair workshop and offices close to the site.
6. The shipping containers are not easily seen from Station Road due to the screening effect of buildings and mature trees near the boundary prevent clear views from the properties to the north. However, the site and development are clearly visible from the upper floor rear windows of houses on Mallard Close. Even so, given the industrial or warehouse appearance of the gym building, the functional nature of the storage facility is compatible with the appeal property. Also, the containers do not stand out as being incongruous amongst the mix of uses and styles of buildings in the area. The plans show the containers in an ordered layout that would be appropriate to the shape and size of the site.
7. The Council's specific requirement for a 3 m wide landscape strip is not clearly justified. Also, no evidence before me demonstrates the proposed planting strip measuring 2 m wide would be inadequate to enable the proposed trees to survive. This new planting would soften the visual effect of the development from Mallard Close and add to the greenery near the site. There is no justification for more robust landscaping as this would not fully mature until after the cessation of the proposed temporary period.
8. As it has a localised visual effect and is compatible with the outward appearance of the gym building, the temporary storage facility causes no harm to the character of the area. The palisade fencing is not widely seen and of an appropriate style to the site. The fire escape staircase is a minor addition and in keeping with the gym building.
9. For these reasons, I conclude the proposal would not harm the character and appearance of the area. Consequently, in this regard, it would accord with policies PG3 and TP7 of the Birmingham Development Plan 2017 (BDP), saved policies 3.14C-D of the Birmingham Unitary Development Plan 2005 (BUDP), the Council's Places for All Supplementary Planning Guidance 2001 and the National Planning Policy Framework (the Framework). These all aim, amongst other things, to ensure development responds appropriately to local context.

Living conditions

10. The removal of the workshops has resulted in an open area that allows ground level views from the site towards neighbouring properties. The trees along the northern boundary obscure views of Oxford Road properties such that there is no unacceptable loss of privacy. Fences obstruct views of ground floor windows and gardens of Mallard Close properties but upper floor rear windows are close to the boundary and clearly visible from the site.
11. The proposed trees would be taller than the boundary fences and partially obstruct views of Mallard Close houses. Also, the shipping containers themselves would block sight of the adjacent properties from parts of the site. As such, users of the self-storage facility would not have extensive or significantly intrusive views of Mallard Close houses once proposed planting and containers are in place.

12. The only 2 storey high container is a significant distance from the eastern boundary and does not lead to any overlooking. The fire escape staircase provides elevated views towards Mallard Close but the proposed planting and containers would provide screening. Also, to minimise the potential for overlooking a planning condition could reasonably be imposed that prevents the use of the fire escape except in an emergency.
13. For the above reasons, I conclude the development would not harm the living conditions of occupiers of nearby residences in respect of privacy once mitigation measures are in place. In this regard, it would accord with BDP policy PG3, BUDP policies 3.14C-D and the Framework. These all aim, amongst other things, to ensure development creates places where occupiers of property enjoy a high level of amenity.

Drainage

14. The submissions indicate that the south part of the site is at risk of surface water flooding. The appellant states that an existing drainage system which served the workshops would be used to capture surface water from the development with disposal into a public sewer.
15. The Council has not sought to dispute the appellant's suggestion that the development would lead to a slight reduction in surface water run-off as the proposed planting strip would provide some water attenuation. As such, the evidence indicates the development would not result in additional risk of surface water flooding. However, in the absence of clear drawings or details, it is uncertain whether the drainage system is capable of managing surface water run-off appropriately and sustainably as required by BDP policy TP6. This is of a particular concern as there is no evidence that demonstrates the drainage system that served the workshops is fully intact following demolition works.
16. Despite the lack of details before me, I am satisfied that this matter can be appropriately addressed through the imposition of a planning condition along the lines as that suggested by the Council. As the appellant's evidence indicates the drainage system is adequate, I am satisfied that such a condition would not result in unreasonable demands even when having regard to the temporary nature of the development.
17. For these reasons, I conclude the development incorporates or will include an adequate surface water drainage system. In this regard, it complies or will comply with BDP policy TP6 and the Framework which seek to ensure development includes drainage systems that appropriately and sustainably manage surface water.

Other Matters

18. A number of other concerns have been raised. The submitted operation and management plan sets out details on how the storage facility will be managed. A planning condition could be imposed to ensure compliance to this plan and so the development would be acceptable in terms of noise, parking provision, tidiness of the site, safety, security and effects on the living conditions of occupiers of nearby residences. Planning conditions could also ensure any CCTV and lighting installed as part of the storage facility is acceptable in terms of effect on neighbouring properties and wildlife.

19. Representations have been made to the effect that the rights of the occupiers of adjoining properties, under the Human Rights Act 1998, Article 1 of the First Protocol, would be violated if the appeal were allowed. I do not consider this argument to be well-founded as I have found that the development would not cause unacceptable harm to the living conditions of such occupiers. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.
20. There is no evidence the development would lead to the loss of any existing trees on or near the site or that it causes harm to wildlife. Also, there is no information before me that shows it causes an unacceptable effect on air quality. The storage facility generates vehicular trips and the access can only accommodate a single vehicle at a time. However, there is no substantive evidence to contradict the highway officer's view that the development is acceptable in terms of highway impact. The claim that there is no need for additional self storage facilities is not substantiated.
21. There is no justification to dismiss the appeal on any of the above grounds. As such, these considerations do not override my conclusions on the main issues.

Conditions

22. I have considered the planning conditions forwarded by the Council having regard to the tests set out in the Framework. Where necessary I have amended their wording for reasons of precision and as development has started.
23. A condition detailing the plans is necessary to ensure the change of use, planting and new build operation elements of the development are carried out in accordance with the approved plans and for the avoidance of doubt. I have assessed the appeal on the basis that the B8 use and installation of the shipping containers would be for a period of 5 years. I have insufficient information to conclude the development would be acceptable on a permanent basis. As such, I impose a condition that requires the cessation of the B8 and storage facility use and removal of shipping containers and associated CCTV and lighting after 5 years.
24. To ensure the satisfactory appearance of the development, I attach a condition requiring the approval of the colour of containers to be installed on the site. For the same reason, a condition is imposed that prevents the storage of goods outside the containers. I have also sought views from the main parties on a condition that would allow the installation of shipping containers on the site only in accordance with the approved plans. Such a condition is necessary to ensure additional containers are not installed that may harm the appearance and character of the area or the amenity of adjacent dwellings.
25. Conditions are imposed requiring approval of any lighting and CCTV to protect the living conditions of occupiers of neighbouring properties. For the same reason and to ensure the satisfactory appearance of the site a condition is imposed that requires the development to be operated in accordance with the operation and management plan. This includes hours of opening and so there is no need for a separate planning condition on this issue.
26. Conditions requiring the proposed soft landscape works and their maintenance are needed to protect the character of the area and to prevent unacceptable loss of privacy to Mallard Close properties. Also, to prevent overlooking I attach

a condition that prevents the use of the fire escape staircase except in an emergency.

27. A condition is imposed that requires drainage details to be submitted and approved. However, parking spaces are already laid out as shown on the approved plans and the provision of electric vehicle charging points would be unreasonable given the temporary permission that is being sought. As such, I have not imposed the suggested conditions relating to these issues.

Conclusion

28. For these reasons, I conclude the appeal should be allowed as set out in the formal decision above.

Jonathan Edwards

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1080 200 revision A, 1080 220 revision D, 1080 300 revision F, 1080 301 revision E, 1080 400 revision C, 1080 401 and UMB0552 03 100 revision B.
- 2) The B8 and self-storage uses hereby permitted shall be discontinued and the shipping containers and associated lighting and CCTV removed from the site no later than 5 years from the date of this decision.
- 3) Unless within 3 months of the date of this decision, details of the colour of the shipping containers to be installed on the site is submitted in writing to the local planning authority for approval, all shipping containers hereby permitted shall be removed from the site until such time as the colour detail has been approved. Only shipping containers of a colour that has been approved in writing by the local authority shall be installed on the site. 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.
- 4) Unless within 3 months of the date of this decision, details of a surface water drainage system as well as an operation and management scheme for the drainage system is submitted in writing to the local planning authority for approval, and unless a drainage system is provided in accordance with approved details within 9 months of the local planning authority's approval, the B8 and self-storage uses hereby approved shall be discontinued and shipping containers removed from the site until such time as the drainage details have been approved and an approved drainage scheme provided on the site. Upon a drainage scheme being provided, the drainage shall be operated and managed in accordance with the approved details. 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.

- 5) Unless within 9 months of the date of this decision the soft landscape works as shown on the approved plans have been fully implemented, the B8 and self-storage uses hereby approved shall be discontinued and shipping containers removed from the site until such time as the soft landscape works have been fully implemented. In the event of a legal challenge to this decision, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 6) Once provided, the soft landscape works as shown on the approved plans shall be managed and maintained in accordance with the details as shown on drawing numbered UMB0552 03 100 revision B.
- 7) No shipping containers other than those shown on the approved plans shall be installed on the site.
- 8) There shall be no storage of goods on any part of the site outside of any shipping container.
- 9) The self-storage development hereby approved shall be managed in compliance with the provisions of Sarah B's Storage Centre Operation and Management Plan Issue 1 dated January 2020 including in accordance with the opening times set out at paragraph 3.1.1 of this document.
- 10) The fire escape staircase as shown on the approved plans shall only be used as an access to or egress from the gym building in an emergency.
- 11) No lighting shall be installed on the site to serve the development hereby approved unless details of the lighting have been submitted to and approved in writing by the local planning authority. Such details shall include the position of the lighting, areas and buildings they illuminate, plans showing horizontal and vertical overspill to include light trespass and source intensity, details of light fittings, colour, watts and periods of illumination. Only lighting in accordance with approved details shall be installed on the site and such lighting shall only be turned on in accordance with approved periods of illumination.
- 12) No CCTV shall be installed on the site to serve the development hereby approved unless details of the CCTV have been submitted to and approved in writing by the local planning authority. Such details shall include the location of cameras, details of mounting columns and details of the use, management and installation areas of the CCTV system. Only CCTV in accordance with approved details shall be installed on the site and such CCTV shall be operated in accordance with the approved details.