
Appeal Decision

Site visit made on 18 August 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/C1055/W/20/3249820

The County Hotel, Sinfin Lane, Derby DE24 9GP

- 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 Ross Bhardwaj (8B (UK) Limited) against the decision of Derby City Council.
 - The application Ref 19/01164/FUL, dated 16 July 2019, was refused by notice dated 20 January 2020.
 - The development proposed is the demolition of an existing public house to allow the construction of a new garage workshop and use of land for a car wash.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of Public House. Erection of MOT testing station, car repair workshop (Use Class B2) and use of land as hand car wash (Sui Generis) at The County Hotel, Sinfin Lane, Derby DE24 9GP in accordance with the terms of the application Ref 19/01164/FUL, dated 16 July 2019, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. The Council have described the development as 'Demolition of Public House. Erection of MOT testing station, car repair workshop (Use Class B2) and use of land as hand car wash (Sui Generis)'. I note that the appellant has also utilised this description on their appeal form. I consider that the Councils revised description provides a succinct and accurate description of the proposal and I have therefore determined the appeal on the basis of the revised description.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the vitality and viability of the Neighbourhood Centre.

Reasons

Character and Appearance

4. The appeal site is situated on the west side of Sinfin Road, next to a large industrial area comprising warehouses and other businesses. To the south-west of the appeal site lies a row of commercial premises including a convenience store and several garages offering servicing and MOT testing. The area opposite the

appeal site, to the east of Sinfin Lane is predominately residential mainly comprising two storey semi-detached dwellings with front and back gardens, giving it a more suburban character to the land west of this part of Sinfin Lane. Given the appeal site's proximity to a bend in the road, I consider it to be in a relatively prominent location. The proposal would demolish the existing vacant former County Hotel, formerly a public house, replacing it with a car wash, car repair workshop and MOT testing station.

5. To the north and south of the appeal site there are industrial and commercial properties close to the public highway on the west of Sinfin Lane. Consequently, given their appearance, scale, design and location I consider the character of this part of Sinfin Lane to be predominately commercial with the buildings having a relatively utilitarian appearance. As a result, I consider that the proposal would not look out of place or represent a discordant addition to the street scene in this location. While I acknowledge that the loss of a more traditionally designed building and its replacement with a more utilitarian building would have a visual impact, for similar reasons to the above, I consider that this impact would not be a significantly adverse one.
6. I also acknowledge that the area to the south and east of the appeal site is predominately residential with a suburban character and appearance. However, this part of Sinfin Lane has a very different character and appearance which contrasts with the part to the west of the road, with the road itself representing a clear divide between them. Furthermore, there are also several other commercial premises on either side of Wordsworth Avenue further to the south just off Sinfin Lane which add to the commercial character of the west side of the road. As a result, I consider that the proposal would not be out of keeping with the existing and established commercial character to the west of this part of Sinfin Lane.
7. Consequently, I conclude that the proposal would not materially harm the character and appearance of the area in accordance with saved Policy GD5 of the City of Derby Local Plan Review (2006) and Policies CP3 and CP4 of the adopted Derby City Local Plan Core Strategy (2017) (CS) which aim to provide a satisfactory level of amenity, encourage good design and ensure that proposals respond appropriately to their local context, amongst other considerations.

Effect on the vitality and viability of Neighbourhood Centre

8. Policy CP12 aims to sustain and enhance the vitality, viability and competitiveness of defined centres prioritising them as the most accessible and sustainable way of meeting everyday shopping and service needs. In Neighbourhood Centres it aims to support their vitality and viability by, amongst other things, helping to combat long-term and persistent vacancy, requiring applicants to submit appropriate evidence that the property has been marketed for a reasonable period of time.
9. Whilst I acknowledge that the proposal would result in the loss of a community asset in the former public house, Policy CP21 supports the retention of existing community facilities such as public houses unless it can be demonstrated that there is no longer a need to retain the use. The Appellant has provided evidence showing that the now vacant public house has been actively marketed for sale for a reasonable period of time with no sale taking place. I therefore consider that this demonstrates that it would be difficult for its current use to be retained and that it may no longer be needed.
10. Indeed, while on my sit visit, I observed that the former carpark to the rear of the empty County Hotel building was vacant and the building itself appeared to be dilapidated and partially boarded-up, and whilst this is but a snapshot in time, I

consider that this plus the evidence before me sufficiently demonstrates that it would be unlikely that the hotel could easily or viably be brought back into use. As a result, I consider that the proposal would comply with Policies CP12 and CP21 as it would assist in combating long-term property vacancy.

11. I also acknowledge that there are other garages and MOT test centres located near to the appeal site. However, from what I observed on my site visit, none of these appeared to have a car wash, and there were not so many of them as to be the dominant commercial use in the vicinity. Indeed, I also observed that there appeared to be just as many, if not more, hot-food takeaways in the area. Consequently, whilst what I observed on my visit represents but a snapshot in time, I consider that the proposal would not result in an unacceptable proliferation of MOT testing stations and hand car wash services in the area. Furthermore, I consider the fact that there are several similar businesses operating in the area shows that there is a demand for this type of use in the Neighbourhood Centre.
12. Accordingly, I conclude that the proposal would not harm the vitality and viability of the Neighbourhood Centre. It would therefore comply with Policy CP12 of the CS which seeks to sustain and enhance the vitality, viability and competitiveness of defined centres, amongst other considerations.

Other Matters

Highway Safety

13. Interested parties have raised concerns relating to the effect of the proposal on highway safety. However, the Highway Authority (HA) has not raised any objection to the proposal on these grounds and the Appellant has provided substantive evidence in the form of a Transport Statement showing that the proposal would not harm highway safety. As a result, I consider that any potential issues in this regard could be adequately mitigated by the imposition of suitably worded conditions reflecting those suggested by the HA.

Conditions

14. I have undertaken some minor editing and rationalisation of the conditions proposed by the Local Planning Authority (LPA) in the interests of precision and clarity. In addition to the standard implementation condition, I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision. In the interests of precision and the character and appearance of the area I have also imposed conditions requiring that the submission and approval of boundary treatment details, and the protection of trees to be retained on site.
15. In the interest of the local environment I have also imposed several conditions in relation to the mitigation and reduction of any potential contamination risk either during or after any construction works. I have also imposed a reasonable and necessary condition relating to the submission of surface water drainage scheme in order to minimise any potential flood risk.
16. In the interest of highway safety, I have imposed necessary conditions requiring the submission of full details of on-site parking provision, safe vehicular manoeuvrability and the proposed vehicular access including the prevention of surface water discharge and visibility splays/sight lines. I have also imposed a condition restricting the height of any structure within the sightlines imposed by the previous condition. In addition, I have imposed a condition requiring the reinstatement of a pedestrian access crossing to replace the redundant vehicular access.

17. Finally, I have attached a condition limiting the hours of operation of the proposed development in order to protect the living conditions of nearby occupiers.

Conclusion

18. For the reasons set out above I conclude that the appeal should be allowed.

C Coyne

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: Site Location Plan; Proposed Site Block Plan Barrier Detail and Pole Sign Detail Drawing no. DB/RB/19/02/02 Revision A; Proposed Elevations and Floor Plans Drawing no. DB/RB/19/02/03.
- 3) Notwithstanding condition 2 no development shall take place until details of the boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 6) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

approved schemes shall be carried out before the development is resumed or continued.

- 7) No building hereby permitted shall be occupied until 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:
 - i) 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;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) All the retained trees and hedges shown on Drawing No. DB/RB/19/02/02 Revision A shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 9) No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as verge and footway to the specification of the Highway Authority; in accordance with details to be first submitted to, and approved in writing by, the local planning authority.
- 10) No part of the development hereby permitted shall be brought into use until space has been laid out within the site in accordance with drawing no. DB/RB/19/02/02 Revision A for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 11) No part of the development hereby permitted shall be brought into use until the visibility splays/sight lines shown on drawing no. F19126/01 are provided to the satisfaction of the Highway Authority in accordance with details to be first submitted to, and approved in writing by, the local planning authority.
- 12) No structure or erection exceeding 0.9 metres in height shall be placed within the sight lines referred to in condition 11.
- 13) No part of the development hereby permitted shall be brought into use until the vehicular access is constructed with provision to prevent the discharge of surface water from the site to the public highway in accordance with details

first submitted to and approved in writing by the local planning authority. The provision to prevent the discharge of surface water to the public highway shall then be retained thereafter.

- 14) No part of the development hereby permitted shall be brought into use until precise details of an on-site scheme to provide for electric vehicle charging shall be submitted to and agreed in writing by the Local Planning Authority, unless otherwise agreed in writing by the local planning authority. The agreed details shall be implemented and retained as such thereafter.
- 15) The uses hereby permitted shall only take place between the following hours:
0700 – 1800 Mondays to Saturdays.
1000 – 1600 Sundays and Bank Holidays.