The Planning Inspectorate

Appeal Decision

Site visit made on 14 July 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/A1530/W/20/3246534
21 London Road, Stanway, Colchester CO3 0NR

- 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 J Doubleday against the decision of Colchester Borough Council.
- The application Ref 192420, dated 11 September 2019, was refused by notice dated 18 November 2019.
- The development proposed is application for 20 shipping containers for storage use including provision of new access road, hardstanding and turning area.

Decision

1. The appeal is allowed and planning permission is granted for 20 shipping containers for Storage Use, including the provision of new access road, hardstanding and turning area at 21 London Road, Stanway, Colchester CO3 0NR, in accordance with the terms of application Ref 192420, dated 11 September 2019, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal on:

   - the character and appearance of the area;
   - the living conditions of occupiers of nearby properties with particular regard to noise, disturbance and air pollution; and
   - road safety and highways.

Reasons

Character and appearance

3. The appeal site is an irregular shaped piece of undeveloped land located at the rearmost part of 21 London Road. The area has a mixture of commercial and residential uses, which defines its character and appearance. The side of the road where the appeal site is located has a higher concentration of commercial uses, particularly at ground floor level, than the opposite side, which is more residential.

4. The proposal is for the location of twenty 6 metre long containers for general storage use.

5. The existing dwelling at 21 London Road fronts onto the highway and is positioned at a similar alignment to other buildings along the same street, set a short distance back from the street. Behind the main dwelling there are a series of store/workshop buildings which take advantage of the site's unusual layout, with it being deep and relatively narrow.

6. As the proposed development would be located behind the existing store/workshop units, although it would be easily perceived and viewed from the allotment site adjacent to the back of the appeal site, it would not be easily perceived from the highway due to the site's shape and dimensions.

7. Policy CE1 of the Colchester Borough Council Local Development Framework Core Strategy (2008, revised July 2014) (the Core Strategy) states that the Council will promote employment generating developments through the regeneration and intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. The appeal site is located outside of such locations and therefore it is not one of the Council's preferred locations for the establishment of employment uses.

8. Nevertheless, Policy CE1 also states that small scale employment developments may be acceptable in residential or countryside locations if they have low travel needs and low impacts.

9. Considering the dimension of the proposed containers, the appeal site's configuration and its location at the rearmost part of the site, the proposed development would not be easily perceived from the highway and, as such, have a low impact on the character and appearance of the area. Furthermore, as the character and appearance of the area is mixed, a non-residential use would not be out of character for the area as a matter of principle.

10. Consequently, in relation to the character and appearance of the area, the proposal would not conflict with Policy CE1 of the Core Strategy.

Living conditions

11. Considering the appeal site's location and neighbouring uses, the present proposal would not create a significant amount of additional noise or general disturbance, particularly taking into consideration that the hours of operation of the site can be controlled through the imposition of conditions.

12. The evidence is unclear in terms of how frequently renters of the storage units would likely visit the site, therefore not easily facilitating an accurate assessment of the effects, particularly how much noise and general disturbance would be created as a result of the development proposal.

13. Nevertheless, considering the nature of the use, it is reasonable to expect that a significant number of the storage units would be accessed only occasionally and infrequently. Furthermore, controlling the hours of operation of the proposed development would further assist in limiting the effects of the proposal on occupants of nearby properties, at those times when noise and disruption can have a greater negative impact.

14. In regard to air and light pollution in the area, the proposal would likely lead to an increase in the number of vehicles and users of the site, as well as an intensification of its use which, in turn, would likely to an increase in air and

light pollution. Nevertheless, considering the mixed use character of the area, the size and shape of the site, the nature of its current use and its proximity to commercial properties, I do not find that the proposal would lead to an significant increase in air and light pollution.

15. In conclusion, for the reasons stated above and in relation to living conditions only, I do not find the proposal to be in conflict with Policy DP1 of the DP Plan which aims to protect the existing public and residents' living conditions, or in conflict with Policy CE1 of the Core Strategy which aims to set out where different types of development should be located.

Road safety

16. The appeal site can be accessed from the main highway via a narrow entrance to the side of the existing building. The proposed development layout would provide a single point of entrance and exit to the appeal site. The entrance, located to the side of the existing dwelling fronting onto the highway, forms part of the appeal site. A restriction gate would limit the width and height of vehicles that would be able to access the site.

17. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

18. From the evidence before me, I do not find that the proposal would have an unacceptable impact on highway safety, particularly considering that the proposed access and layout of the site would allow for sufficient turning space and for vehicles to leave and join the highway facing it directly and at a right angle. Furthermore, I do not have any evidence before me which leads me to believe that the residual cumulative impacts of the proposal would be severe.

19. Accordingly, the proposed development would not have significant effect on highway safety or worsen the safety conditions of the highway for any of its users.

20. In conclusion, for the reasons stated above and in relation to road safety only, I do not find the proposal to be in conflict with Policy CE1 of the Core Strategy which aims to set out where different types of development should be located while having consideration to their impact on the wider area, including transport and accessibility.

Conditions

21. The Council has prepared a list of suggested conditions which include the standard time limit and implementation conditions. I have considered these in light of government guidance on the use of conditions in planning permissions and made amendments accordingly, including combining conditions.

22. In order to provide certainty, a condition specifying the approved drawings so far as they relate to the details to be approved at this stage, would be necessary.

23. In the interest of safeguarding living conditions and to provide an opportunity for the Local Planning Authority to consider the impacts of a different use at this site, I have included a condition which restricts future changes of use.

24. In the interest of safeguarding the character and appearance of the area, I have included conditions which require details of both hard and soft landscape works to be submitted.

25. In the interest of safeguarding the living conditions of the occupants and users of the surrounding area, define construction times, restrict the opening hours of the use and manage refuse.

26. In the interest of highway safety, I have included conditions regarding vehicular access.

Conclusion

27. For the reasons given above, I conclude that the appeal should, subject to the identified condition, should be allowed.

Andre Pinto

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: 314/01/201, 314/01/102, 314/01/104.
3. The premises shall be used for storage and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
4. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

    i) means of enclosure;

    ii) boundary treatments;

    iii) minor artefacts and structures, including refuse;

    iv) lighting.

    Development shall be carried out in accordance with the approved details.
5. No development shall commence until details of the appearance of the storage units to be used as part of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
6. Details of the type and placement of a height restriction warning sign (2.6m) to be submitted to and approved, in writing, by the Local Planning Authority. The approved warning sign shall be erected before the operation of the site commences and should be retained in perpetuity.
7. Demolition or construction works shall take place only between 08:00-18:00 on Mondays - Fridays and between 08:00-13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
8. Customers shall only be permitted on the premises between the following hours: 08:00-21:00 on Mondays – Saturdays, 09:00-18:00 on Sundays or on Bank or Public Holidays.
9. There shall be no outdoor storage of any materials, goods, equipment, plant machinery or vehicles of any description on any part of the site.