
Appeal Decision

Site visit made on 21 September 2020

by Alexander Walker MPlan MRTPI

appointed by the Secretary of State

Decision date: 04 December 2020

Appeal Ref: APP/P0119/W/20/3249595

Land at Milbury Heath, Cuttsheath Road, Buckover GL12 8QH

- 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 M Bracey against the decision of South Gloucestershire Council.
 - The application Ref P19/11769/F, dated 16 August 2019, was refused by notice dated 15 November 2019.
 - The development proposed is mixed commercial uses (B2, B8 & ancillary office use) and associated buildings and structures.
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Decision.

1. The appeal is dismissed.

Procedural Matter

2. An appeal was also made against the enforcement notice issued on 24 April 2020 that included the subject appeal site. However, the Council have confirmed that the notice was subsequently withdrawn on 12 October 2020 and no further action is therefore required in respect of it. My decision therefore relates only to the s78 appeal, the summary details of which are set out above.
3. At the time of my site visit part of the site was being used as an overspill dog run area for the neighbouring 'doggy day-care' business. This overspill dog run is not included within the description of the development or any supporting documents. For the sake of clarity, I have determined the appeal on the basis of what has been applied for, not what is actually taking place on the appeal site.
4. The description of the development as set out in the application form refers to the 'Retention of existing...'. However, 'retention' is not a form of development. Accordingly, I have determined the appeal on the basis of the proposal being for mixed commercial uses (B2, B8 & ancillary office use) and associated buildings and structures as set out in my banner above.

Main Issues

5. The main issues are the effect of the development on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance, and the character and appearance of the area.

Reasons

Living Conditions

6. The appeal site comprises several small compounds with various uses taking place, including a metal forge business, vintage car storage and general storage. To the front of the site is a large car parking area with access directly off Cuttsheath Road. Adjacent to the site is a hair stylist and a 'doggy day care' business. In addition, there are a number of dwellings that line both sides of Cuttsheath Road, to the west and north east of the site.
7. At the time of my site visit, the existing businesses operating from the site were low key and any noise emanating from them would be barely discernible from outside the site, in particular from the neighbouring residential properties. However, my consideration of the proposal has been based on what could potentially take place on the site within the proposed B2 and B8 uses.
8. B2 uses in particular could involve the use of power tools, plant and machinery which generate significant levels of noise. Furthermore, the number of delivery vehicles involved with both the B2 and B8 uses could also generate noise, for example, HGV or forklift warning sounds whilst they are reversing. Such harmful effects could be exacerbated by the number of units on the site, with various power tools, plant and machinery operating simultaneously and vehicles frequently manoeuvring throughout the site.
9. I have had regard to the appellant's Noise Assessment, undertaken by Hepworth Acoustics, dated August 2017, and the addendum to it, dated 5 August 2019. However, this assessment has largely been based on the existing businesses operating on the site. Whilst reference is made to potential future noise generation, the analysis of the effect of this on nearby residents is very vague and simply concludes that it could be controlled through various mitigation measures. However, no such measures are before me. Accordingly, due to the ambiguity of the conclusion on the effects of potential future uses, I attribute limited weight to the findings of this assessment.
10. Consequently, based on the evidence before me, it has not been sufficiently demonstrated that noise and disturbance that could potentially emanate from the site would not be significantly harmful to the living conditions of the occupants of neighbouring residents.
11. I have had regard to the appellant's contention that the proposal would be no more harmful than the lawful use of the site as a landscape garden centre with retail sales. However, I do not agree. It seems to me that a number of B2 and B8 uses operating from the site could potentially generate a far greater level of noise than a landscape garden centre as it would likely involve a greater use of power tools, plant and machinery.
12. The appellant has suggested the imposition of a condition restricting the uses to those that are currently operating from the site. However, that would not prevent similar uses from operating from the site at a more intensive level. For example, one of the units is used for car repairs, which is low level at the moment. However, were another car repair business to operate from the same unit, within the same use, it may well operate at a far higher intensity, with greater use of power tools, plant and machinery, and with that significantly greater noise and disturbance, which could be unacceptably detrimental to the living conditions of neighbouring residents. Accordingly, such a condition would not adequately mitigate the harm I have identified above.

13. I find therefore that the proposed development would significantly harm the living conditions of the occupants of neighbouring residents, with regard to noise and disturbance. As such, it would be contrary to Policy PSP8 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (the LP) 2017, which seeks to protect residential amenity.
14. The Council also refer to Policy PSP28 in their second reason for refusal. However, this policy does not relate to residential living conditions. Accordingly, I find no conflict with it in regard to this main issue.

Character and Appearance

15. Despite the semi-rural character of the area, there are a number of commercial premises within close proximity of the appeal site. Indeed, the site itself has a landscape garden centre use. Whilst B2 and B8 uses are not typically compatible with semi-rural locations, given that commercial properties already form a prominent aspect of the character and appearance of the area, the proposed units would not be out of character.
16. The appeal site comprises low level buildings and structures, with those visible from Cuttsheath Road largely screened by high, close boarded timber fencing. Due to the layout of the units, some are further screened by other units or set back into the site, away from public views. Therefore, from public views, it is not readily apparent that there are a number of businesses operating from the site. The low profile of the units and fencing and their set back position from the road ensure that they are not dominant features within the streetscene.
17. The Council appear to be concerned regarding the storage of items and materials on the hardstanding, which could adversely affect the character and appearance of the area. Whilst I share this concern, I am satisfied that an appropriately worded condition could mitigate it, ensuring that they are contained within their associated unit, therefore avoiding such harm.
18. I find therefore that the proposed development would not unacceptably harm the character and appearance of the area. As such, it would comply with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy 2013, which seeks to ensure that development is informed by, respects and enhances the character, distinctiveness and amenity of both the site and its context. It would also comply with Policies PSP1, PSP2 and PSP28 of the LP, which seek to ensure that development responds constructively to the characteristics of the area; conserve or enhance the quality, amenity, distinctiveness and special character of the landscape; and, relates well to settlements or existing groups of buildings. It would also accord with the design objectives of the National Planning Policy Framework.

Other Matters

19. I have had regard to the comments received by tenants of the site and the work they have done in the locality. However, my assessment of the proposal has been based on the potential effects B2 and B8 uses on the site could have, rather than the effect existing businesses have, as these businesses may change in the future.
20. I note that no objections were received from neighbouring residents during the Council's consideration of the planning application. However, a lack of objection does not necessarily equate with a lack of harm. In any event, the

Council confirm that a number of complaints have been made regarding the site and the effect it has on the living conditions of nearby residents.

Balance and Conclusion

21. I have found that the proposal would not unacceptably harm the character and appearance of the area. However, this is a neutral effect and does not outweigh the harm it would have on the living conditions of the occupants of nearby residential properties, with regard to noise and disturbance.
22. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR