



Appeal Decision

Site visit made on 16 November 2020

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/12/2020

Appeal Ref: APP/M1520/W/20/3252047

343 Rayleigh Road, Benfleet, Essex SS7 3XA

- 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 Co-operative Group Food Ltd against the decision of Castle Point Borough Council.
 - The application Ref 19/0446/FUL, dated 12 May 2019, was refused by notice dated 6 December 2019.
 - The development proposed is demolish garage building to rear (south west) of site, ground floor extension to rear (south west); change of use from car sales and repair garage (sui generis) to convenience retail store (Class A1); new plant area to southern elevation; re-organisation to yard area to accommodate 15 customer parking spaces and 8 no. cycles parking spaces; external alterations to property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is described as alterations, extension and change of use from car sales/repair to retail on the decision notice and the appeal form. This is a more succinct description than on the application form and so I have based my decision on this.

Main Issues

3. I consider that the main issues are the effect of the proposal on: -
 - the provision of housing in the Borough;
 - the living conditions of the occupiers of the neighbouring residential property at 333 Rayleigh Road; and
 - parking and vehicular access.

Reasons

4. The appeal site comprises an existing car sales and repair garage, Woodmans Garage, on a corner location where a double roundabout system serves Rayleigh Road, Hart Road and Daws Heath Road. There are two vehicular access/egress points, one on Rayleigh Road and the other on Hart Road. There are commercial properties on the opposite side of Hart Road, wrapping around Rayleigh Road and there is a Public House on the opposite corner of Rayleigh Road and Daws Heath Road. The area is otherwise residential in character with

Zebra crossings located around the roundabouts' junctions. Woodmans Garage is single storey and comprises an open forecourt to its frontage for vehicle display.

Housing Land Supply

5. The Council has stated that there is a shortfall of housing land to meet its requirements to demonstrate a five year supply. The Council refer to Local Plan¹ Policy H2 which establishes that land allocated for residential purposes shall be retained primarily for that purpose and development which would result in the loss of large sites allocated for residential purposes will be refused. A copy of the proposals map accompanying the development plan has been submitted with the appeal documents which shows the appeal site as falling within the wider residential area.
6. The existing use can be described as a non-conforming one in the residential area and it appears to have been identified by the Council as a brownfield site capable of re-development for residential purposes. However, no evidence has been submitted that identifies this site as being one where housing could be delivered within a five year period. I accept that the Council has explained its shortfall of deliverable housing sites but no evidence has been submitted as part of this appeal that the development of this site would compromise the Council's future housing responsibilities.
7. I consider that the site is a relatively modest one that is currently in a non-residential use within a wider residential area as allocated within the development plan and falls to be considered under Local Plan Policy H2. The proposal would not significantly alter the character of the area in terms of eroding a significant residential area and so I do not consider that the proposal would compromise the application of Policy H2 generally. This proposal would represent the redevelopment of the site from one commercial use to another. Furthermore, the appellant has explained the functioning and role of a Co-op convenience store of this size and it seems to me that it would serve the local residential area for convenient / top-up shopping not dissimilar to the function of a traditional corner shop.
8. I have considered this matter in detail but I can find no conflict with Policy H2 in terms of the principle of developing this site for a non-residential purpose at this time.

Living Conditions

9. The decision notice specifically refers to the effect of the proposal on the occupiers of No 333 Rayleigh Road. This residential property lies to the south of the appeal site and would be close to the parking and servicing area. Whilst a commercial use already exists from the appeal site, the proposal would have the potential to be more intensive with later opening hours and a general increase in comings and goings. Opening times and servicing delivery times could be controlled by condition and this may go some way to overcome some of the potential adverse effects. However, the store would still be open for trade and deliveries fairly early in the morning and well into the evening and I remain concerned that even with appropriate restrictions, the living conditions of the residents at No 333 Rayleigh Road could be harmed. In considering this

¹ Castle Point Borough Council Local Plan Written Statement, Adopted 17 November 1998.

matter I have taken into account the need to strike a balance between protecting residential amenity but not at the expense of prohibiting the realistic functioning of the proposed retail store.

10. The existing garage has two accesses, one on Rayleigh Road and the other on Hart Street. The proposed store would have one point of access which would be close to No 333 Rayleigh Road. The southern part of the site would include parking space adjacent to the boundary with No 333 as well as a small servicing area and what appears to be air conditioning units for the building. The plans indicate no space for landscaping or a buffer between these areas and the boundary with No 333. I accept that no such buffer exists now but due to the potential intensification of the use of the site by the proposal, I am concerned that the living conditions of the occupiers of this dwelling could be harmed.
11. I have taken into account the noise assessment submitted by the appellant and the lack of objections from the Council's Environmental Health department but this does not overcome my concerns about the potential harm. Therefore, I consider that the proposal would conflict with Local Plan Policy EC3 which seeks to protect residential amenity from traffic, noise, fumes or other forms of disturbance.

Parking and Vehicular Access

12. Local Plan Policy S5 requires the provision of adequate car parking facilities in all development. In this case, the Council seem to accept that the number of spaces falls well within the maximum required but has expressed concern about the circulation space to allow vehicles to manoeuvre given that the servicing vehicles and customer cars would utilise the one access.
13. I note that the Council's Highways Engineers have not objected to the proposal and the appellant has also put forward a case for the scheme's acceptability from a highway point of view. I also note a plan indicating parked cars and showing a larger vehicle manoeuvring. Whilst I accept that this arrangement could work, and I note that the appellant has suggested conditions to address these concerns including a Delivery Management Plan, I remain concerned that manoeuvring space is limited and am unconvinced that there would not be times when space was inadequate. This would conflict with Policy S5.

Conclusion

14. Whilst I note that the Council's position with regard to the supply of housing land is a matter that needs to be addressed in order for the Council to fulfil its requirements to provide housing within the Borough, I do not consider that the development of this site for the use proposed would undermine that responsibility so as to justify withholding planning permission. I therefore do not find that Local Plan policy H2 would be compromised.
15. However, I have found that the proposal would have a harmful effect on the living conditions of the occupiers of No 333 Rayleigh Road and therefore conflict with Local Plan Policy EC3. Furthermore, whilst the appellant has demonstrated that the number of car parking spaces and vehicle manoeuvring could take place, I consider that this arrangement could easily be compromised due to the limited space available. This would therefore conflict with Local Plan Policy S5.

16. I have taken all other matters raised into consideration including the National Planning Policy Framework² but none alter my conclusion. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal therefore fails.

INSPECTOR

² Ministry of Housing, Communities and local Government national Planning Policy Framework, February 2019.