



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: 07/01/2021

Appeal Ref: APP/M1520/W/20/3252158

Site Adjacent to 71 Stadium Way, Thundersley, Benfleet SS7 3TS

- 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 G. B and M Halibard as trustees C/o/ Hair and Son against the decision of Castle Point Borough Council.
 - The application Ref 19/0602/FUL, dated 25 July 2019, was refused by notice dated 6 December 2019.
 - The development proposed is proposed erection of new warehouse adjacent to 71 Stadium Way.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed erection of a new warehouse adjacent to 71 Stadium Way on land adjacent to 71 Stadium Way, Thundersley, Benfleet SS7 3TS in accordance with the terms of the application, Ref 19/0602/FUL, dated 25 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those in the adjacent industrial unit at 71 Stadium Way.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: -
 - *Drawing Nos F824/11 Revision C; F824/12 Revision A; and F824/13 Revision D.*
 - 4) The parking spaces shown on Drawing No F824/11 Revision C dated 04.05.2018 shall be marked out and made available for use prior to the first occupation of the building hereby approved and retained for use by occupiers of the building thereafter.

Main Issue

2. I consider that the main issue is the effect of the proposed warehouse on parking provision in the area.

Background

3. The planning history associated with this site is relevant to this proposal and is detailed in the report submitted to the Council's Planning Committee on 3 December 2019. From the information submitted, six warehouse units were granted planning permission subject to a condition relating to the laying out and maintenance of parking provision¹. A later planning application for a warehouse adjacent to 71 Stadium Way was refused in 2017 on the basis that it would displace car parking into surrounding streets, cause parking congestion and impede large vehicles to the detriment of pedestrian safety². Apparently, following this decision a palisade fence and gate was erected enclosing the site and preventing it being used for parking. A further planning application for a warehouse was refused in 2018 for reasons similar to those in 2017³.
4. The Council's Legal Services department were subsequently consulted about a Breach of Condition Notice in relation to the condition relating to parking provision on the original planning application for the warehouse; condition 6 referred to above. It is also questionable whether the parking provision was laid out or maintained in accordance with the condition. The Council has taken the view that the owner of the land can fence off the site and there is no legal justification for requiring the land to be available for parking.
5. It is not for me under the terms of this Section 78 appeal to determine the legalities of the Council's, the appellants' or third parties position with regard to this matter. The situation has arisen so that Council Officers reported to the Planning Committee that, in their view, a parking reason for refusal cannot be sustained on the basis of the previous planning requirement for parking provision.
6. At the Committee meeting, Members could not support an approval given the previous decisions to refuse a warehouse on this site as it would remove parking from an area which was in need of parking improvements.

Reasons

7. The appeal site is on an existing industrial estate and 71 Stadium Way forms an end unit in a block of industrial units grouped around a central hardstanding area. The proposed unit would fill in a gap at the end of No 71 between the unit and a palisade fence to its boundary with Claydons Lane. There is a pedestrian access into the group from Claydon's Lane along with an Electricity Sub-Station and a Telecommunications Mast.
8. An area of land at the end of No 71 is fenced and gated and at the time of my site visit it was free of any vehicles or other storage items. Parking for cars and commercial vehicles is available around this group of units either directly in front of particular units or more informally within the area of hardstanding.
9. Amongst other things, Local Plan Policy EC2⁴ seeks to ensure that all modes of movement are made safe and convenient. The proposal would include provision for car parking close to the new unit and the Council has not argued an under provision in this regard.

¹ Planning Application Ref: CPT/1291/79 – Condition 6.

² Planning Application Ref: 17/0795/FUL.

³ Planning Application Ref: 18/0488/FUL.

⁴ Castle Point Borough Council Local Plan Written Statement, Adopted 17 November 1998.

10. Notwithstanding the legal position much of the appeal site is fenced off and therefore vehicles cannot park on it unless access is permitted, presumably by the owner. As the situation stands, I can see no benefit in leaving this area undeveloped or unused. I accept that parking may be an issue on the estate but I also noted that the industrial estate appears as a busy and thriving one and I see little to be gained by stopping this development by withholding this permission.
11. I have considered the conditions suggested by the Council in the event that this appeal is allowed and in the light of Planning Practice Guidance⁵. In addition to requiring materials to be similar to those of the adjacent unit, which I consider is necessary in the interest of the visual appearance of the development, I have also considered the condition suggested with regard to parking provision. I consider that a condition is necessary in order to provide and retain parking provision for this unit. However, I have amended the suggested wording in the interests of precision. For the avoidance of doubt and in the interest of proper planning I have also imposed a condition requiring the development to be carried out in accordance with the submitted plans.
12. I have considered the proposal in the context of the National Planning Policy Framework⁶. I have also considered all other matters raised but none alter my conclusion. I conclude that the proposal would not conflict with Local Plan Policy EC2. It would not in itself have a harmful effect on parking provision in the area subject to the condition I have imposed. The appeal therefore succeeds.

J D Clark

INSPECTOR

⁵ Planning Practice Guidance, Published 6 March 2014, Last updated 23 July 2019.

⁶ Ministry of Housing, Communities and Local Government National Planning Policy Framework, February 2019.