



Appeal Decision

Site visit made on 19 January 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2021

Appeal Ref: APP/Z4718/W/20/3257754
750 Bradford Road, Batley WF17 8NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr C-Jay Barraclough of Nextcar against Kirklees Metropolitan Borough Council.
 - The application Ref 2019/94146, is dated 18 December 2019.
 - The development proposed is erection of a car showroom/office and MOT testing station.
-

Decision

1. The appeal is dismissed and planning permission for erection of a car showroom/office and MOT testing station is refused.

Preliminary Matters

2. There is some variation in the details given on the planning application form, Council committee report and subsequent appeal documents. I have taken the spelling of the appellant's name from the appeal form, as this reflects that given on the land ownership declaration on the planning application form. I have used the reference number of the planning application as given on the Council's questionnaire and Committee report.
3. During the course of the planning application and appeal, a number of versions of the plans of the proposal have been submitted. This includes Revisions B, C and D. The evidence suggests that Revision B was the version presented to the Council's Committee, and Revision D is the version which the Council considers was submitted with the appeal. The amendments between Revisions B, C and D appear to be relatively minor, and relate to landscaping whilst the physical layout of the proposal would remain basically the same between the different Revisions. The appellant has confirmed that he wishes the appeal to be considered on the basis of Revision C, and due to the minor nature of the amendments between those Revisions I consider that no party would be prejudiced were I to proceed to determine this appeal on the basis of Revision C of the plans.
4. Reference has also been made to Revision G, which is incorrectly labelled as Revision E. However, compared to the previous versions of the plans which formed the basis of consultation and the Council's consideration of the proposal, the amendments in respect of Revision G are more than minor in

nature, and include matters such as a rearranged upper car storage level, a relocated access ramp and amendments to the extent of landscaping. However, having had regard to the Wheatcroft Principles¹ and in the interests of fairness, I consider that the appeal must be determined on the basis of Revision C for the reasons stated previously, and not the significantly revised scheme of Revision G. To do otherwise could prejudice unacceptably the interests of parties who would not have been consulted on Revision G and who may have observations to make.

5. At my site visit I saw that a development had commenced. However, this does not reflect the details of the plans which form the basis of the appeal, including matters such as the location of the access ramp.

Main Issue

6. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council has provided a Committee Report which sets out the reason for refusal had it resolved to determine the application. This is also specified in the Council's Statement of Case. The appellant has been given the opportunity to comment on this.
7. On the basis of the indicative reason for refusal provided by the Council, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

8. The appeal site is an area of open land located adjacent to the busy highway of Bradford Road, which contains a mixture of uses including residential and commercial properties. The evidence suggests that the appeal site was previously used for car sales and repairs as well as containing residential properties. Despite the mixed use character of this area, the majority of properties in the immediate vicinity of the site are in residential use.
9. The area has a sloping topography, and this is reflected in the sloped character of the highways adjacent to the site and leading through it, and the stepped arrangement of adjacent dwellings.
10. It is proposed to create two level areas within the site. This includes an area facing onto Bradford Road containing an MOT garage and a car sales building with extensive areas of tarmac providing parking, manoeuvring and display space. An elevated level would be located to the rear of the site, between Newley Avenue and Wensleydale Parade, which would be surfaced primarily in tarmac and used for vehicle storage. The levels would be separated by a retaining wall, and a vehicle access ramp would be provided between the two levels adjacent to Newley Avenue.
11. Due to the extent of hard surfacing, the site would have a stark and open appearance, even allowing for its proposed use for the display of vehicles. Furthermore, the extent of the retaining wall and ramp would be viewed as obviously engineered features which would add to the unacceptable appearance of the site.

¹ Bernard Wheatcroft Ltd v SSE (1982) which is further explained in the Procedural Guide: Planning Appeals - England 2020: Annexe M - Can a proposed scheme be amended?

12. The appellant has proposed hanging shrub planting to soften the appearance of the retaining wall. However, due to the extent of the wall I am not persuaded that the shrub planting would mitigate the visual harm arising from the proposal. Furthermore, no planting is proposed for the retaining wall constructed between the MOT garage and 13 & 14 Wensleydale Parade. Limited evidence is provided in respect of the location and nature of the retaining structures around the MOT building, and had I been minded to allow this appeal this is a matter I would have considered further.
13. The access ramp would also appear as an awkward element within the site, as it would introduce an extent of hard surfacing adjacent to the sloped tarmac access along Newley Avenue.
14. The appellant refers to the potential for landscaping and boundary treatment to address visual amenity. However, given the extent and layout of hard surfacing and retaining structures proposed on the revision of the plans which form the basis of this appeal, I am not persuaded that suitable provision could be made for landscaping to mitigate these concerns, even allowing for the extents of planting indicated. I therefore do not consider that concerns in respect of visual amenity could be addressed through the use of conditions placed on the appeal proposal, such as conditions in relation to landscaping.
15. Due to the sloping topography of the area and views enabled by access roads to nearby dwellings, walls or fences directly along the site boundary may also be unduly prominent, particularly if these are of a height suitable for security purposes or public safety, such as limiting access due to differing site levels.
16. I acknowledge that the proposed buildings would be of a location and design that would not harm the character and appearance of the area. However, this does not outweigh my concerns in respect of the other elements of the proposal.
17. For the reasons given above, I conclude that the appeal proposal would be of a design and layout which would lead to significant harm to the character and appearance of the area. The proposal would therefore be contrary to the design requirements of Policy LP24 of the Kirklees Local Plan 2019. The proposal would also be contrary to the National Planning Policy Framework in respect of achieving well-designed places.

Other Matters

18. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal. However, this does not alter my findings on the proposal before me, which I have considered on its planning merits.
19. I am mindful that the proposal would bring a vacant and unsightly site back into a productive use. However, this benefit would not outweigh the significant harm I have identified in respect of character and appearance.

Conclusion

20. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross INSPECTOR