
Appeal Decision

Site visit made on 24 March 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 April 2021

Appeal Ref: APP/G2625/W/20/3260691

Land rear of 196 Earlham Road, Norwich NR2 3RW

- 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 Grimley (Prime Securities Ltd) against the decision of Norwich City Council.
 - The application Ref 20/00557/F, dated 13 May 2020, was refused by notice dated 14 July 2020.
 - The development proposed is the construction of double garage for domestic use to be leased.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the suitability of the proposed site for the proposed development, taking into account the development plan policies.

Reasons

3. The appeal site is a parcel of land to the rear of No.s 180 – 208 (even) Earlham Road; a row of two storey terraces. Historically each of the dwellings along with their back garden were able to access additional plots to the rear which were termed as 'leisure plots' which according to interested parties were also used as allotment gardens. The plots to the rear are accessed from a private unsealed drive which is to the side of No.180 and accesses each of the rear plots. During the twentieth century the allotment gardens use ceased and the land was sold to the terraces where many of the terraces extended their garden to accommodate these rear plots of land, and maintained the access to the rear. In the case of the appeal site, this parcel of land which is located to the rear of 196 Earlham Road was not incorporated into the garden of the terrace and was maintained as a separate plot of land. The appeal site is grassed and contains a derelict shed and has an unmaintained appearance.
4. There is dispute between the parties with regards to the use of the appeal site and the proposed use which is being applied for. Whilst it is not for me under a Section 78 appeal to determine the current correct and legal use class of the appeal site, to me the site has the appearance of amenity greenspace. To that end it is open to the applicant to apply for a determination under sections 191/192 of the Town and Country Planning Act if they believe the lawful use is different and my determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

5. There is also dispute with regards to the proposed use. Whilst the applicant disputes the Council's reasoning of classing the proposed use as B8 Storage, the application form completed by the applicant states that the proposed use would be B8 Storage. The applicant does not offer an alternative use class which is to be applied. The application form states that the purpose of the garage is to lease as residential storage, which is in effect a commercial operation for generating income in that the storage unit would be leased to one or more tenants. The storage shed is not connected to a dwelling and therefore could not reasonably be seen as being ancillary to a residential unit for the purpose of private domestic storage. I appreciate that the Applicant seeks that the use of the storage unit be conditioned for 'domestic storage,' however this would not meet the test for conditions as shown in the National Planning Practice Guidance. Put another way, there would be no reasonable way to tell if a car or boat was being stored or worked on for domestic or business purposes. Tying the storage via condition to a domestic storage use would also be very difficult to enforce and it would also be an unreasonable condition to limit the use to domestic storage or that no business be able to operate from the unit.
6. Be that as it may, based on the evidence before me, the Council have logically assessed the scheme in terms of a B8 storage use where the site would in effect be an independent commercial operation for the leasing of storage space. It is also not identified within the appeal documents as to whether the unit would be leased to one tenant or to a number of tenants which could increase the frequency of vehicular movements and parking for the type of vehicle to and from the unit should multiple tenants be leasing the space. There is also the potential that the proposed use would be likely to result in an increase of noise and disturbance given that such a commercial use would likely be incompatible within this residential environment. Additionally, whilst the private unmade laneway would be suitable for single private domestic use in association with the terraces, the accessway would be unsuitable for a commercial operation which is likely to generate more than a domestic level of trips and vehicle types.
7. In conclusion of this matter, the proposed development would be an inappropriate location for a commercial operation, and would therefore be contrary to Norwich Development Management Policies Local Plan 2014 Policy DM1 (which seeks to achieve the delivery of sustainable development through location, means of access and spatial and functional relationships to existing uses); Policy DM2 (which seeks that proposed development not result in an unacceptable impact to the amenity of the area or the living or working conditions of operations of neighbouring occupants; Policy DM11 (which seeks to reduce the impact of noise or permit uses likely to give rise to environmental noise, neighbour noise which could impact upon the well being and quality of life of surrounding occupiers); and Policy DM30 (which seeks that development take account of the surrounding environment and the ability to access and accommodate the proposed use).

Conclusion

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

J Somers

INSPECTOR