



Appeal Decision

Site Visit made on 21 June 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2021

Appeal Ref: APP/W1905/W/21/3269155

86 High Street, Waltham Cross EN8 7BU

- 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 Ali Matur against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/0919/F, dated 8 October 2020, was refused by notice dated 8 December 2020.
 - The development proposed is the change of use of existing garages to B2 & B8 use as a warehouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has referred to layout plan 1336-10 rev B. However, this is not within the submission. Whereas, layout plan 1336-10 rev A, shows the parking and refuse arrangement within the service yard and is the version of this plan that the Council refused. As such I have taken 'revision A' into account in my decision.

Main Issues

3. The main issues are;
 - the effect of the proposed B2 and B8 use on the living conditions of existing residents of Abbey Road, with particular regard to noise, and
 - the effect of the proposal on highway safety with respect to the parking, manoeuvring and refuse requirements of the proposed and existing use within the service yard.

Reasons

Living conditions

4. The site is adjacent to a row of semi-detached houses along Abbey Road with comparatively short gardens. Access to the site is via a relatively narrow service road that connects to Abbey Road between No's 54 and 56. The existing garage block appears to have gained planning permission in 2019 for use in connection with the existing use of the site.
5. The proposed use would be for B2 and/or B8 use. The Use Class Order¹ describes B2 (General Industrial) use as "use for the carrying on of an industrial process other than one falling within a use described in schedule 2,

¹ Town and Country Planning (Use Classes) Order 1987 as amended

Class E, sub-paragraph (g)". The described caveat relates to those commercial, business and service uses that can be carried out in a residential area without detriment to amenity. The order also describes a B8 use as being for the use for storage or as a distribution centre.

6. The National Planning Policy Framework (The Framework) requires, at paragraph 180, that new development should avoid noise giving rise to significant adverse impacts on health and the quality of life. Also, Planning Practice Guidance requires decision making in consideration of noise impacts, to consider whether or not a good standard of amenity can be achieved. Furthermore, the Council's Borough Wide Supplementary Planning Guidance (2013) includes guidance with respect to industrial and commercial development. This states that the location of commercial development should give due consideration to nearby noise sensitive uses such as housing. It also comments that the Council may prevent certain uses unless it can be demonstrated that it would not adversely affect nearby noise sensitive uses.
7. The rear courtyard is partly enclosed to its side by a boundary wall adjacent to the residential plots. Also, some landscape screening is present within the neighbouring rear gardens. Nevertheless, the relatively short gardens would be adjacent to the site and close to the building the subject of this appeal. Furthermore, habitable room windows overlook the site and the frontage of the building.
8. The Council's Environmental Health department raised no objection to the proposed B8 use, subject to a limit on its hours of use, but appears to have been silent with respect to the proposed B2 use. I tend to concur that the B8 use would have a limited effect on the living conditions of nearby residents.
9. In contrast, the anticipated noise effects of the proposed B2 use has not been assessed within the appellant's submission. As such, in the absence of a Noise Impact Assessment, the potential noise associated with a B2 use has the potential to cause substantial noise impacts. Associated noise effects would be substantially adverse and invasive for adjacent residential occupiers. This would be likely to affect the use and enjoyment of both their external and internal spaces. Furthermore, without understanding the noise impact of the use, the capability and scope of suitable mitigation cannot be considered. Therefore, due to the broad scope of noise generating industrial processes permitted within this use, such activity would be likely to cause demonstrable harm to the occupiers of the adjacent residential properties.
10. The access onto Abbey Road would be unlikely to cause substantive noise disturbance to adjacent residential occupiers due to the number of existing commercial activities that have access from this route. However, the proposal would be likely to result in significant harm to the living conditions of residents of Abbey Road due to the effect of noise from a B2 use related business.
11. Consequently, the proposal would conflict with policies EQ1 and EQ4 of the Broxbourne Local Plan 2018-2033 (2020)(LP). These, among other matters, seek noise generating proposals to avoid detrimental impacts on the amenity levels enjoyed in the area and for development creating noise levels above background levels to be sited away from noise sensitive land uses. The proposal would also fail to accord with the Council's Borough wide Supplementary Planning Guidance (2013). These policies are consistent with

the Framework which requires development to provide for a high standard of amenity for existing and future users.

Highway safety

12. The access road, connecting the site to Abbey Road, includes single-yellow lines on one side. Although providing only a snap-shot in time the service road was subject to extensive parking during my visit. The rear courtyard provides a servicing area for several shop units. The service yard consists of a hard-surfaced area used for ad hoc parking and deliveries in connection with the existing commercial uses. During my visit I observed a delivery truck unloading to a shop unit. This occupied a substantial part of the manoeuvring area in the middle of the space. Also, I noted that most parking areas around the perimeter of the yard were occupied. This illustrated, that at that time, the service yard was a relatively congested area.
13. The proposed layout of the car park shows three parking spaces allocated to the proposed use. It also shows the provision for refuse storage areas for both the shared commercial and residential uses within the service yard. This would result in the loss of around six existing spaces and is therefore the proposal is not proposing the creation of new spaces. Furthermore, as these would be located beyond the red-lined site, there is no formal mechanism to secure the provision of the spaces or the refuse areas. In any event, if delivered, this provision would result in the loss of a substantial part of the service yard to the disbenefit of the existing uses within it.
14. The proposed layout does not include details of refuse storage within the red-lined application site. Such an absence would not accord with the Council's Waste Supplementary Planning Guidance (2019), requiring refuse storage provision to stated standards.
15. The submitted plans do not show the existing arrangement of parking, manoeuvring or delivery or how it would be adapted to accommodate the details shown on plan 1336-10 rev A. As such, the vehicular activity associated with the proposed uses would be likely to result in overspill parking and manoeuvring within adjacent roads. Due to the narrow and congested nature of the service road this would be likely to affect the wider highway network and result in an adverse impact on highway safety. Consequently, I am unconvinced that the impact of the proposed B2 and B8 uses has been adequately considered within the proposal.
16. The County's Highway Authority raised no objection to the proposal, this is a point of moderate weight. However, its comments do not discuss the anticipated displacement of existing car parking. I am therefore unconvinced that the full impact of the proposal has been sufficiently considered by the Highway Authority.
17. Accordingly, the proposal would have a moderate adverse impact on highway safety on the local highway network. As a consequence, the proposal would be contrary to policies EQ1 and TM5 of the LP. These seek, among other matters, for development to include provision for the storage for refuse and to be in accordance with the Council's car parking guidelines. The proposal would also fail to satisfy the Council's Waste Supplementary Planning Guidance (2019). These policies are generally consistent with the Framework that seeks to

prevent development that would have an unacceptable impact on highway safety.

Conclusion

18. The proposal would harm the living conditions of adjacent residents and result in overspill activity within the local highway harming highway safety. The proposal would therefore conflict with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Mr Ben Plenty

INSPECTOR