
Appeal Decision

Site visit made on 14 September 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2021

Appeal Ref: APP/P1750/W/21/3270310

1 Elms Road, Aldershot GU11 1LH

- 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 Bernie Scully (Aviva Life and Pensions UK Limited) against the decision of Rushmoor Borough Council.
 - The application Ref 20/00782/FULPP, dated 7 January 2021, was refused by notice dated 18 February 2021.
 - The development proposed is rebuilding of garage workshop (following fire damage) in same footprint, other than previous unauthorised eastern side extension.
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Decision

1. The appeal is allowed and planning permission is granted for rebuilding of garage workshop (following fire damage) in same footprint, other than previous unauthorised eastern side extension, at 1 Elms Road, Aldershot GU11 1LH, in accordance with the terms of the application Ref 20/00782/FULPP, dated 7 January 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Bernie Scully (Aviva Life and Pensions UK Limited) against Rushmoor Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken this into account where relevant to my decision.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, having regard to noise, air pollution and light pollution impacts.

Reasons

5. The appeal site comprises a long-established vehicle servicing and repairs centre, located on the north side of Elms Road in a predominantly residential area close to Aldershot Town Centre. The L-shaped site is surrounded by

residential properties to both sides, rear and on the opposite side of the road. These dwellings include a 3-storey flats building at 79 – 81 Grosvenor Road which abuts the site, and which prior to its conversion, formed part of the garage premises. There is also a light industrial/commercial business yard on the opposite side of the road.

6. The site has long been used for general vehicle mechanical and bodywork repairs and servicing, tyre fitting and MOT testing. The former building on the appeal site was substantially destroyed by a fire in February 2020, with only a 2-storey high steel frame and part of a lower side extension remaining in situ at present.
7. The plans and information before me indicate that the previous building comprised a substantial rectangular-shaped brick-built structure with a pitched roof comprising asbestos cement, covered with corrugated metal sheets. The building extended across most of the width of the rear part of the site, adjacent to the site boundaries with the neighbouring residential properties to the rear, the west side and the front of the elongated part of the L-shaped appeal site.
8. The Council is concerned that, having regard to the location of the site within a relatively densely populated residential area, and given the number of residential properties that abut the site, the daily activities that would take place on the site as a result of the use of the site, combined with the scale of the proposed garage, would result in material harm to neighbouring living conditions, and that these impacts would include noise and light disturbance and air pollution. In this respect the Council notes that the use of the site falls within the General Industrial B2 Use Class which, by definition, could not be carried out in a residential area without detriment to its amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
9. Notwithstanding the above, the evidence before me is that the existing use of the site is long-established and lawful. This is a matter to which I attach considerable weight in my decision. Furthermore, having regard to impacts arising from the proposed new built development, the appeal scheme would result in a replacement building of the same footprint and height and in the same location as the former structure. It would accommodate the same uses as previously, including ground floor workshops/servicing areas, a paint spray booth and MOT bay at ground floor with offices and storage at first floor over part of the building.
10. The building openings and a single storey reception area would remain on the front elevation as existing, and there would be no additional front elevation openings. There would also be no openings within the walls of the rear and side elevations, apart from fire-escape provision on the east side of the building, which would replace an existing side extension, so that the building would be set further off the eastern site boundary. The proposal would incorporate a change to the building materials to provide insulated profiled metal wall panels over brick for the walls, incorporating insulated roller shutter doors, and insulated metal sheet roofing panels, which would incorporate modern building standards which would secure an improved acoustic noise environment.
11. The above factors, in addition to a revised and improved layout to the frontage staff and customer parking to enable improved access to the workshop doors, suggest that the intensity of the business use would not be significantly greater than that previously, and that the proposal would potentially improve the

situation in respect of noise emissions compared with those associated with the previous fire-damaged building and associated layout of use. Also, the removal of an existing external car lift situated on the forecourt could further alleviate third party concerns in respect of noise impacts associated with external repairs and servicing activities, which would no longer occur.

12. Approval of the appeal scheme also provides the opportunity to introduce additional noise controls to address third party comments in respect of noise levels during and beyond normal working hours, such as imposing restrictions on the operating hours in respect of the whole premises, requiring measures to control noise emanating from the premises, such as keeping the roller shutter doors closed except when opening is required to accommodate the movement of vehicles and equipment in and out of the building, keeping windows and doors closed during warm weather, and prohibiting external storage of materials and equipment.
13. Having regard to potential disturbance impacts arising from external lighting, the granting of the appeal proposal allows for the imposition of a condition to ensure the provision of an appropriate external lighting scheme which takes account of the proximity of the site to surrounding residential uses.
14. The Council is concerned about materially harmful impacts on neighbouring living conditions arising from air pollution associated with the proposed paint spray booth due to its proximity to nearby dwellings. The siting of the spray booth and associated flue would be similar to that which existed previously, and as approved in 1994. The appeal scheme provides scope to ensure that a replacement spray booth operates in accordance with current regulations in respect of fume emissions.
15. The Council and third party comments have drawn my attention to a number of complaints that have been made to the Council's Environmental Health Department over the years that the site has operated. I have not been provided with the specific details, but the evidence before me is that they predominantly related to noise, lighting and refuse. On the basis of the information before me, including the lack of objection from the Council's Environmental Health Officer, subject to conditions which provide an opportunity to address these concerns, and having regard to the lawful use of the site, I am not persuaded that this appeal should be dismissed on the basis of complaints relating to the former mode of operation of the premises.
16. In addition, a significant proportion of the complaints and third party concerns in respect of the planning application and appeal, appear to relate specifically to the actions of previous tenants, having regard to the manner in which they operated the business. The evidence before me is that the appellant is not a previous tenant and is seeking to redevelop the site for its lawful use. As such, this matter is not sufficient to alter my conclusion in respect of the main issue.
17. For the above reasons, I therefore conclude that the proposal would not materially harm the living conditions of the occupiers of neighbouring properties, having regard to noise, air pollution and light pollution impacts. The appeal scheme would therefore accord with Policies DE1 and DE10 of the *Rushmoor Local Plan 2014 – 2032* (2019), in so far as these policies seek to ensure that new development avoids harm to adjacent users by reason of, inter alia, noise, light pollution, or air pollution and that it is satisfactorily demonstrated that any adverse impacts of pollution arising from proposed

development will be adequately mitigated or otherwise minimised to an acceptable level.

Other Matters

18. I acknowledge the third-party comments stating preferences for alternative uses of the site which are more respectful of its predominantly residential setting. However, I must determine this appeal on the basis of the proposal before me, and having regard to the existing lawful use of the site.
19. A number of third party objections relate to safety concerns in respect of fire, having regard to the previous fire that occurred in close proximity to residential properties. I am not persuaded that this constitutes a reason for dismissing the appeal, given the requirement for the appeal scheme, including the building cladding materials, to comply with other legislation that specifically covers this matter, including Building Regulations, and given that Hampshire Fire Services specifically confirmed that they raise no objection to the proposal.
20. I have noted third party concerns in respect of in-adequate on-site parking resulting in more on-street parking and traffic congestion associated with the appeal scheme. Having regard to the proposed improvement to the forecourt parking area, including removal of the external car lift, which would be secured through a planning condition, and given the accessible location of the site close to the town centre and the lack of objection to the scheme from the County Council Highway Authority, I am satisfied that this matter has been satisfactorily addressed.
21. Having regard to third party concerns in respect of the impact of the proposal on the character and appearance of the area, the Council has found no harm in respect of this matter, and on the basis of the proposed scheme and on the basis of the evidence before me, I concur with this view. The new building would replace one of a similar scale and functional design, whilst incorporating more contemporary facing materials and the omission of a previously unlawful side extension. A planning condition preventing the external storage of materials and equipment would allay concerns raised in respect of the former untidy nature of the site.
22. Regarding concerns raised about the impact of the proposal on rights of way to adjacent properties, I note that the application drawings were amended to confirm that these would be maintained. Having regard to objections on the grounds of loss of neighbouring sunlight arising from the building, this is noted, but does not alter my decision, given the replacement nature of the proposed building.

Conditions

23. I have considered the Council's suggested conditions in accordance with Paragraph 56 of the Framework and the National Planning Practice Guidance and, where necessary, I have modified them. In addition to the standard implementation condition, it is necessary to define the plans for certainty (1,2). In the interests of protecting the character and appearance of the area, a condition is necessary to ensure appropriate external facing materials in respect of the external plinth walls (3).
24. In the interests of protecting the living conditions of neighbouring residents, conditions are necessary to restrict the hours of operation (4), ensure the

implementation of measures to control noise emanating from the building (5, 6), ensure satisfactory measures to control emissions from the spray booth (7), and ensure an appropriate external lighting scheme (8).

25. A condition is required to ensure the provision of adequate parking (9). To protect the character and appearance of the area and the living conditions of neighbouring residents, a condition is required to ensure no external storage of materials and equipment (10). In the interests of protecting neighbouring living conditions and highway safety, a condition is necessary to restrict the hours of construction and demolition (11).

Conclusion

26. For the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 scale Location Plan; 1:200 scale Site Plan; 01H Existing Elevations; 02H Existing Layout Plans; 1:200 scale Site Plan Proposed Revision 2; 03H Proposed Layout Plans; 04H Proposed Elevations; and materials details titled "Proposed Change to External Materials".
- 3) Construction of the following elements of the development hereby approved shall not start until a schedule and/or samples of the materials to be used in them have been submitted to, and approved in writing by, the Local Planning Authority. Those elements of the development shall be carried out using the materials so approved and thereafter retained: External plinth walls.
- 4) The premises shall not be used outside the following times:
07:00 to 19:00 Mondays to Saturdays.
The premises shall not be used at any time on Sundays and Bank or Statutory Holidays.
- 5) The roller shutter doors comprising part of the development hereby approved shall be kept closed at all times except for the explicit purpose of ingress and egress of vehicles and equipment.
- 6) No occupation or use of the development hereby approved shall take place until a scheme of provisions for the control of noise emanating from the site has been implemented in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. This shall include details of adequate ventilation to ensure doors and windows can remain closed during periods of warm weather. The approved scheme installed shall be thereafter retained.
- 7) No use or occupation of the paint spray booth hereby approved shall commence until measures to control emissions to the atmosphere likely to emanate from any such proposed activity within the booth have been implemented in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. These details shall include the height, position, design, materials and finish of any external chimney or vent. The measures so approved shall be thereafter retained.
- 8) No occupation or use of the development hereby approved shall take place until details of external lighting on the site is first submitted to and approved in writing by the Local Planning Authority, to include a layout plan with beam orientation and a

schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details.

- 9) Prior to commencement of use of the premises hereby approved, the staff and visitor parking spaces shown on scale 1:200 Site Plan Proposed Rev 2 shall be clearly marked out and thereafter retained and used for no other purpose.
- 10) With the exception of conventional waste storage bins, no storage of materials or equipment associated with the use and operation of application site shall take place outside the building hereby approved.
- 11) Construction or demolition work of any sort within the area covered by the application shall only take place between the hours of 0800-1800 on Monday to Fridays and 0800-1300 on Saturdays. No work at all shall take place on Sundays and Bank or Statutory Holidays.

*****End of Conditions*****