



Appeal Decision

Site Visit made on 23 November 2021

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/N4720/W/21/3282218

Unit 1 Leslie Terrace, Woodhouse, Leeds, LS6 2PR

- 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 P Zangana against the decision of Leeds City Council.
 - The application Ref 21/03913/FU, dated 4 May 2021, was refused by notice dated 19 July 2021.
 - The development proposed is retrospective application for change of use including alterations to private hire taxi rank to form tyre changing and repair facility.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above has been taken from the Council's decision notice and the appeal form. At my site visit, although the premises were being used for the tyre business the alterations to the building, the tyre store and the boundary wall had not been done. The appeal proposal is therefore partly retrospective and I have assessed it on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In this case, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I have therefore not sought further submissions on the revised Framework, and I am satisfied that no party would be disadvantaged as a result.

Main Issues

4. The main issues in this case are the effect of the proposed development on:
 - The character and appearance of the surrounding area;
 - The living conditions of adjoining occupiers, having particular regard to noise and disturbance; and
 - Highway safety, having particular regard to the safety and free passage of all highway users.

Reasons

Character and appearance

5. The appeal site is located to the north of Leeds city centre on the corner of the junction between Woodhouse Street and Leslie Terrace which is an unadopted cul-de-sac. It is within a mixed residential/commercial area, with the dwellings

along Woodhouse Street interspersed with retail and commercial premises creating a varied character and appearance. No 163 Woodhouse Street (No 163) is located to the rear of the appeal premises and the terraced dwellings fronting onto Leslie Terrace are opposite the appeal building.

6. The tyre business is operating from a single storey unit with a tyre storage area to the side adjoining Woodhouse Street and a small hardened forecourt to the front facing Leslie Terrace. The storage area is enclosed with metal builders fencing and presents a poor appearance and unsightly frontage to Woodhouse Street, which detracts from the character and appearance of the area.
7. The alterations to the building to install a new roller shutter door and block up an existing doorway would not significantly alter its existing appearance and would be appropriate in the context of the mixed and commercial character of the area.
8. Part of the existing 0.8 metre high wall on the Woodhouse Street frontage and on the rear boundary alongside No 163 would be increased to 1.8 metres to enclose the side wall and rear of the tyre store. This would help to screen views of the stored tyres and tidy up the appearance of the site. However, due to its height and open corner location, the wall would have an unduly prominent and harsh appearance. Notwithstanding that this is a built-up urban area, the wall would appear as a jarring and incongruous feature in the street scene, particularly when approaching along Woodhouse Street from the east when both aspects of the wall would be visible in the street scene.
9. The 2.5 metre fence to the front of the tyre store would be a poor quality and incongruous form of enclosure which would be highly visible in the street scene when approaching from the west due to its height.
10. The proposed wall and fence would appear unduly prominent and conspicuous in the street scene which would be harmful to the character and appearance of the area, in conflict with Policy N25 of the Leeds Unitary Development Plan (2006) (UDP) which requires boundaries of sites to be designed in a positive manner. The wall and fence would fail to protect the visual amenity of the area through high quality design as required by Policy P10 of the Leeds Core Strategy (2019) (CS). There would be conflict with the Framework in so far as it requires development to add to the overall quality of an area.

Living conditions

11. The dwellings on Leslie Terrace opposite the appeal site have a single elevation and a small outdoor space facing onto the road. Development on the roads to the east of Woodhouse Street comprises rows of terraced dwellings set at the back edge of the pavement.
12. The appeal site is within an urban and mixed residential and commercial area where the traffic on Woodhouse Street, pedestrians and the activity generated by other facilities such as shops and schools contribute to the background noise environment. The former use of the building as a taxi rank would have been likely to generate noise and disturbance from the parking and manoeuvring of vehicles and this is likely to have taken place during the evening hours.
13. However, tyre fitting and repair involves the use of lifting equipment and power tools which generate noise and disturbance of a mechanical and industrial nature. This is different from the noise that would have been generated by the

taxi rank's vehicles, introducing sudden and irregular occurrences of mechanical noise which are noticeable and materially different from the background noise and disturbance generated by vehicular traffic.

14. The submitted plans show a car space inside the building which would be used for changing and repairing tyres and the appellant indicates that this would take place with the doors closed. Whilst the submitted plans show that the building would be insulated to restrict the emission of noise, the evidence does not include any noise assessment to demonstrate the resulting noise levels with the proposed sound insulation measures in place. Furthermore, the building's restricted floorspace and the difficulties of manoeuvring into and out of the building suggest that repairs and tyre fitting would be likely to take place with the doors open or on the forecourt area.
15. Noise from the use of lifting equipment and power tools in the open would be in short bursts and would be audible and noticeable above existing background noise levels. In the absence of any submitted noise assessment, I cannot be certain of the level of noise that would be generated by the tyre business, nor that it could be operated in a manner that would avoid creating undue noise and disturbance to the occupiers of adjoining properties. The dwellings facing onto Leslie Terrace would be particularly adversely affected, since they only have one aspect facing onto the street.
16. I have considered whether conditions could be imposed to mitigate the impact of the development and the harm to living conditions. Although a condition could be imposed to restrict the hours of use to those specified in the planning application, this would not eliminate the noise and disturbance during the hours of operation of the business. A condition requiring the doors to be kept closed whilst repairs are taking place would be likely to be impractical for the reasons outlined above and would be difficult to monitor and enforce. Therefore, it would not meet the tests for conditions in the Planning Practice Guidance (PPG) which require that conditions are enforceable and reasonable. The PPG also states that 'unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable'.
17. Policy GP5 of the UDP states that development proposals should resolve detailed planning considerations and avoid loss of amenity and for the reasons outlined above, the appeal proposal would conflict with this policy. There would also be conflict with the Framework in so far as it requires a high standard of amenity for existing and future users.

Highway safety

18. The appeal scheme would provide one staff parking space inside the building and two parking spaces and one waiting space on the forecourt area. The Council considers that customer vehicles would generate an increase in demand for on-street parking that would be likely to overspill onto surrounding streets, which would be detrimental to the free and safe flow of traffic and to pedestrian safety.
19. I have not been referred to any published parking standards which would apply to parking provision for the appeal proposal. However, customer turnover and vehicular movements are likely to be limited by the small scale nature of the business which has one full time employee and by its location which serves a more local catchment area. In this context, the proposed three parking spaces

on the forecourt would be likely to be sufficient to meet the level of customer demand. In addition, a planning condition could be imposed to ensure that the forecourt area is kept clear of obstructions and available for customer parking.

20. In the event that customer parking spaces become full, the resident only parking restrictions on Leslie Terrace and the restrictions on Woodhouse Street would deter customers from parking indiscriminately on those roads. At the time of my mid-morning site visit on a weekday, there were a number of unrestricted spaces available on the roads to the north of Woodhouse Street. Whilst the business should meet its parking requirement on site, the level of demand for on-street parking on unrestricted roads would be unlikely to lead to situations where there is insufficient on-street space to enable vehicles to manoeuvre out of the path of oncoming traffic to enable it to pass or to situations that would be detrimental to the safety of pedestrians.
21. For these reasons, my conclusion is that the proposal would not cause material harm to the safety and free passage of other highway users. Whilst the Highway Authority has objected to the proposal, I have come to my conclusion based on the circumstances of the site and the details of the appeal scheme before me. There would be no conflict with CS Policy T2 which seeks to ensure that development does not materially add to safety problems on the highway network, nor with the Framework which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion

22. Whilst I have concluded that the appeal scheme would not cause material harm to the safety of other highway users, this would not outweigh the harm to the character and appearance of the surrounding area and to the living conditions of adjoining occupiers.
23. The economic benefit of the business, the reuse of the building and the availability of a useful local service weigh in favour of the proposal. The appeal scheme would be consistent with the Framework in so far as it states that significant weight should be placed on the need to support economic growth and productivity and promote and support the development of under-utilised land and buildings. However, I conclude that the benefits of the scheme would not be sufficient to outweigh the conflict with the UDP and CS policies having regard to the effect on character and appearance and living conditions. For these reasons, I conclude that the appeal proposal conflicts with the development plan, read as a whole. There are no material considerations of sufficient weight to justify a decision other than one in accordance with the development plan.
24. For the reasons outlined above and having had regard to all other matters raised, the appeal should be dismissed.

Sarah Housden

INSPECTOR