



Appeal Decision

Site visit made on 12 October 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2022

Appeal Ref: APP/Z4718/W/21/3277556

Land at 750-754 Bradford Road, Batley WF17 8NL

- 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 C-Jay Barraclough, Nextcar against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/91118/E, dated 17 March 2021, was refused by notice dated 13 May 2021.
 - The development proposed is the construction of a car showroom/office and MOT station.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a car showroom/office and MOT station at Land at 750-754 Bradford Road, Batley WF17 8NL in accordance with the terms of the application, Ref 2021/62/91118/E, dated 17 March 2021, subject to the following conditions in the attached schedule.

Procedural Matters

2. The name of the appellant is different on the application form and appeal form. The appellant has confirmed that this is a misunderstanding as it is a family business, and they are both directors of the company. Therefore, for clarity, I have taken the name of the appellant from the application form.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In reaching my decision I have had regard to the revised Framework.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site relates to a parcel of land located along Bradford Road. The immediate area is characterised by a mix of uses including residential, commercial and industrial. Buildings are of varying designs including roof forms, heights, materials, massing and style. The topography of the area results in changes of levels of both the appeal site and surrounding residential terraced properties along Wensleydale Parade and Newley Avenue. Resulting in the blocks of residential terraces sloping upwards away from Bradford Road with staggered rooflines and large gables.

6. There is also a mix of boundary treatments along Bradford Road, including stone retaining walls of varying heights due to the topography, particularly where buildings are set back from Bradford Road. Almost directly facing the site is a motorcycle service and repair centre with a tarmac forecourt and access to Smithies Mill Industrial estate. Towards the west from Wensleydale Parade is an existing garage, MOT and service centre which is sited on a large area of tarmac hardstanding relatively open, facing the highway with limited landscaping. Therefore, although there are residential properties that immediately surround the site the wider context and appearance of Bradford Road is of an open nature with varying commercial premises having forecourts and/or large areas of hardstanding.
7. The proposal involves the construction of a MOT garage towards the lower part of the site adjacent to Bradford Road with a car show room on the opposite side of the new and improved access. Towards the eastern side a raised area would serve as a car sales/display area with retaining walls. The plans indicate that a number of planters would overhang the wall with the addition of tree pits and buffer planting in and around the site.
8. From the evidence before me it appears that the proposal has been revised including the siting of the ramp, materials for the buildings and further landscaping introduced to minimise the visual impact. It also appears that the Council have no objections to the principle use of the site for such a commercial use.
9. Although, there would be views of the appeal site from the roadway, the area has existing commercial premises including other garages and industrial units that feature large areas of hardstanding and many properties have retaining walls. The proposed buildings would be relatively low in height in comparison to the dwellings behind, have suitable materials and would not appear incongruous within the area.
10. As such the buildings, hardstanding and retaining walls would not be an untypical feature of the area and appear out of character within the immediate and wider street scene. The finer finish of materials for both the buildings and retaining walls could be agreed by a suitably worded condition, thus being in keeping with the character and appearance of the area.
11. I acknowledge that the Council are concerned regarding the proposed lack of landscaping put forward by the appellant at this stage. However, I consider that the landscaping proposed, albeit not a full schedule of planting is sufficiently shown on the plans and the details of the exact planting schedule could be dealt with by a suitably worded condition prior to development commencing. This could incorporate tree planting as suggested in the Council's officer report for landscape/trees and would ensure that the mitigation of screening of the site is by way of buffer planting / trees in and around the car sales areas, boundaries and is in place prior to the business operating.
12. Furthermore, an agreed landscaping scheme and maintenance would contribute to improving the commercial aspects of the immediate and wider street scene where there appears to be somewhat limited planting and landscaping for the majority of existing commercial premises. It would also reduce the open aspect of the appeal site including those retaining features.

13. In arriving at this conclusion, I have had regard to the previous appeal decision¹ at the site. I note that the Inspector found that the proposal due to the design and layout would harm the character and appearance of the area. In this proposal, materials, design, and layout including the ramp location have changed. It also introduces landscaping throughout the site than just hanging shrubs. In any case, I have considered the appeal proposal on its own individual merits.
14. For the reasons given above, I conclude that the proposal would not harm the character and appearance of the area. It would not be in conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies, 2019 that promotes good design. Furthermore, it would not be contrary to the Framework in respect of achieving well designed places.

Other Matters

15. I note that local residents have expressed additional concerns about the proposed development, including car parking and access for pedestrians and vehicles. However, the Council did not raise these points as reasons for refusal and the proposed access road would be aligned to allow access to Wensleydale Parade with improved pedestrian access. The buildings would be set away from the adjacent dwellings and residents parking to the rear of the site appears to be unofficial on private land. Moreover, ownership issues are a private matter between the relevant parties and not within my jurisdiction, whilst planning permission would not override any legal rights of access.
16. There is no evidence that the proposal would give rise to an increase in anti-social behaviour, crime and air/noise pollution in the area. The type of lighting, opening hours, suitable drainage and any unexpected contamination found at the site could be dealt with by suitably worded conditions. The concerns about demand for the proposed uses, the impact on the value of the site and whether implementation would take place are not matters which would justify withholding permission.
17. There would be a number of benefits to the appeal proposal. These include the redevelopment of the site which at present has an untidy, negative appearance and would also make efficient use of previously developed land. Securing economic development in which businesses can invest, expand and adapt in line with paragraph 81 of the Framework. There would also be further economic benefits including 3 full time jobs, although short term it would create the provision of construction jobs, purchasing of materials from local suppliers and contractors. Be within a sustainable location with good transport and road links. Therefore, I would accord these benefits significant weight and they add to further support to the findings I have reached above.

Conditions

18. I have considered the conditions suggested by the Council, consultees, additional comments from the appellant and council on pre-commencement, and in light of the Planning Practice Guidance (PPG). For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.

¹ APP/Z4718/W/20/ 3257754

19. A condition specifying the time limit and approved plans is necessary as this provides certainty. I have imposed a condition (3) specifying materials are to be agreed, and in order to safeguard the character and appearance of the area. Condition (4) is necessary for hours of operation including deliveries and dispatches at the premises, in the interests of both the living conditions of nearby residents and highway safety. Condition (5), in the interests of construction methods.
20. I have imposed Condition (6) as this is necessary for the detailed landscaping of the site, implementation and maintenance, in the interests of the character and appearance of the area. Condition (7), (8), is necessary for suitable drainage and to alleviate any flood risk at the site. Condition (9), (10), (11) are necessary and required for highway safety and for ensuring suitable parking provisions. Condition (12), (13), (14) are required and necessary to ensure the site is developed in a safe manner. Condition (15) is required for details of any external lighting within the site, in the interests of highway safety and to protect the living conditions of nearby residential occupiers.

Conclusion

21. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should succeed.

K A Taylor

INSPECTOR

Appeal Ref: APP/Z4718/W/21/3277556
Land at 750-754 Bradford Road, Batley WF17 8NL

Schedule of conditions attached to planning permission

- 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: HS1, HS2, HS3, SP1, YH762/2A, YH762/1A.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0830 - 1700 Monday to Friday, 0900 - 1600 Saturdays and 1000 - 1600 Sundays or Bank Holidays.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include a statement setting out the design objectives and how these will be delivered, means of enclosure and retaining structures, boundary treatments, hard surfacing materials, planting schedules noting species, and an implementation programme (including phasing of work where relevant) and management plan. The scheme shall also include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use

- in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with the approved scheme of management and/or maintenance.
- 7) No development shall take place until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted /abandoned) has been submitted to and approved in writing by the local planning authority. The scheme shall include a maintenance and management plan for surface water infrastructure. The development shall not be brought into use until such approved drainage scheme has been provided on the site to serve the development and retained thereafter.
 - 8) No development shall take place until a scheme demonstrating surface water from vehicle parking and hard standing areas passing through an oil/petrol interceptor of adequate capacity prior to discharge, including that roof drainage should not be passed through any interceptor shall have been submitted to and approved in writing by the local planning authority. The development shall not be brought into use until the drainage system has been implemented, and thereafter managed and maintained in accordance with the approved details.
 - 9) No development shall commence until the sightlines of 2.4m x 43m from the proposed site access onto Bradford Road shall be cleared of all obstructions to visibility exceeding 1 m in height and these shall be retained free of any such obstruction for the lifetime of the development.
 - 10) No development shall commence until a scheme detailing the provision of an improved access to Wensleydale Parade, construction specification, surfacing, drainage and kerbing including the relocation of existing telegraph poles and associated highway works has been submitted and approved in writing by the local planning authority. The development shall not be brought into use until the approved scheme has been implemented and thereafter retained throughout the lifetime of the development.
 - 11) No part of the development shall be brought into use until the existing access from Bradford Road has been permanently closed [and any redundant footway crossings removed, and the footway reinstated] in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The new access shall be constructed in accordance with the approved plans and implemented prior to the first use / occupation of the development hereby approved.
 - 12) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy REF: E07/44171R001. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the

site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

- 13) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to and approved in writing by the local planning authority. No part of the site shall be first brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.
- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued
- 15) Details of any external artificial lighting and/or floodlights shall be submitted to and approved in writing by the local planning authority before the use hereby permitted takes place and the buildings are occupied. Development shall be carried out in accordance with the approved details.

----- End of Schedule -----