



Appeal Decision

Site visit made on 31 January 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Appeal Ref: APP/B4215/W/21/3283618

Land adjacent to 29 Cambert Lane, Gorton, Manchester M18 8HA

- 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 Faek Taufik Rashid against the decision of Manchester City Council.
 - The application Ref 129194/FO/2021, dated 25 January 2021, was refused by notice dated 9 April 2021.
 - The development proposed was originally described as upgrading of storage yard to provide secure covered storage by enclosing and covering space between two standard 40" shipping containers.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of an enclosed and covered area between two new storage container units to be sited adjacent to the northern site boundary; repositioning of existing portable office/ welfare building, a portable toilet, formation of waste storage area and retention of car parking and servicing area in connection with the use of the site for storage purposes (Class B8) at Land adjacent to 29 Cambert Lane, Gorton, Manchester M18 8HA in accordance with the terms of the application Ref 129194/FO/2021, dated 25 January 2021, subject to the attached schedule of conditions.

Preliminary Matters

2. The development for which planning permission is sought was originally described on the application form as "upgrading of storage yard to provide secure covered storage by enclosing and covering space between two standard 40" shipping containers". However, in the formal decision, I have used the description given on the decision notice as it is a more precise and accurate reflection of the development for which permission is sought.
3. I noted on my site visit that work had commenced but had not been completed. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the surrounding area; and

- The living conditions of the occupiers of nearby residential properties, having regard to noise and disturbance.

Reasons

Character and appearance

5. The appeal site has previously been used as a storage yard. The Council highlight that the existing structures located within the site are unauthorised. The existing access off Cambert Lane and the boundary treatment are to be retained.
6. The character of the surrounding area is predominantly residential. The area is also characterised by the adjacent railway line and trees as well as the supermarket and associated car park on the opposite side of Cambert Lane.
7. The proposed storage containers and covered storage structure would not be a dominant structure when viewed from the surrounding area because of their siting towards the rear of the site and nearby trees. The portacabin would be situated towards the front of the site, away from the residential properties. It would also not be a dominant structure due to its orientation and because it would be marginally higher than the boundary treatment. The extent of hardstanding would also not be prominent from the surrounding area due to the boundary treatment and, based on the information presented, I understand that the site previously contained a similar extent of hard surfacing.
8. Views of the proposed development would be visible from neighbouring residential properties. However, views would be restricted because of the height of the boundary treatment, trees and orientation of the dwellings' windows. For those reasons, although the proposed structures do not have a domestic appearance, due to their siting and height as well as the context of the street scene, the proposed development would not be conspicuous from the surrounding area. The scheme would have limited impact upon the street scene and would respect its setting and relationship with nearby buildings.
9. Consequently, the proposed development would not have an unacceptable effect on the character and appearance of the surrounding area. Therefore, it would not conflict with Policies SP 1 and DM 1 of the Manchester's Local Development Framework: Core Strategy Development Plan Document (2012) (CS). These policies seek, amongst other matters, to ensure new development has regard to the impact on the surrounding area in terms of the design, scale and appearance of the proposed development.
10. It would also comply with chapter 12 of the National Planning Policy Framework (the Framework) which promotes good design and seeks to ensure that developments are sympathetic to local character. In addition, it would comply with the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (2007) which states the scale, position and external appearance of new buildings should respect their setting and relationship to adjacent buildings.

Living conditions

11. The appeal site was previously used as a builders yard, for the storage of plant, vehicles and equipment, which benefited from a lawful development certificate. There is no information before me to suggest that the previous use was subject

to any planning conditions such as controlling working hours. Although the Council highlight that the site has been vacant for several years, the Council does not suggest that the proposed use is not in line with its lawful use as a builders storage yard.

12. There are a number of residential properties adjacent to the appeal site, namely 29 Cambert Lane and 86-92 Furnival Road. The objection comments highlight that the site has caused noise and disturbance issues. The appellant suggests that the issues relate to the former car storage and wrecking business located at the site.
13. The appellant seeks to use the site to store old building equipment which they recycle by exporting them for reuse in developing countries. They state traffic to the site is limited with no more than one or two deliveries or pickups per week.
14. The proposed use of the site would result in potential noise from roller shutters and vehicle movement, including engines, reversing beepers and forklift trucks. Nonetheless, it is likely that the former builders storage yard would have also generated similar noises. Planning conditions could control operating and delivery hours. This would ensure that the appeal site cannot be used at certain times of the day when neighbouring occupiers would reasonably expect a degree of peace and quiet when they would wish to sleep.
15. I understand that the builders yard did not include structures. Nonetheless, there is no robust evidence before me to demonstrate that the proposed development would significantly increase levels of activity compared to the former builders yard and would constitute an intensification of use. Having regard to the Planning Practice Guidance, and bearing in mind the established lawful use of the site and suitably worded planning conditions, the scheme would not significantly adversely affect the living conditions of neighbouring residents, including the enjoyment of their rear garden areas, to a degree that would warrant planning permission being refused.
16. My attention has been drawn to a previous appeal decision at the site. However, that appeal relates to a new motor garage and therefore cannot be directly compared to the scheme before me.
17. For those reasons, based on the evidence submitted, the development would not have an unacceptable effect upon the living conditions of the occupiers of nearby residential properties, having regard to noise and disturbance. Accordingly, the proposal would comply with Policies DM 1 and SP 1 of the CS and Policy DC26 of the Unitary Development Plan for the City of Manchester (1995). These policies seek, amongst other matters, to ensure consideration is given to the effect of new development proposals which are likely to be generators of noise.
18. It would also comply with chapters 12 and 15 of the Framework. These seek to ensure that developments create places with a high standard of amenity for existing and future users and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Other matters

19. I have had regard to the objection comments. These concerns relate to overlooking, loss of privacy, damage to wall, property prices, toilet as well as an increase in traffic, parking, pollution, crime, vandalism and footfall, and a residential use would be more in keeping.
20. Given the height of the boundary treatment and distance to neighbouring properties, the proposed development would not result in overlooking or loss of privacy. Damage to the wall is a private matter. Any effect of the proposal on property values is not a matter for me to consider further as the planning system operates in the public interest and does not seek to protect private interests.
21. The local highway authority, Greater Manchester Policy (Design for Security) and Environmental Health did not object to the proposal. Smells associated with the toilet could be dealt under the Environmental Protection Act 1990. There is no robust evidence before me to demonstrate that the scheme would detrimentally result in an increase in traffic, parking, pollution, crime, vandalism and footfall. The Council did not refuse the planning application on these grounds, and I see no reason to disagree with that assessment.

Conditions

22. I have assessed the Council's, and consultees, suggested conditions in light of guidance found in the Planning Practice Guidance. Where necessary the wording has been amended for clarity, precision and to ensure that the development can be enforced against if the requirements are not met. The appellant and the Council were given the opportunity to comment on the altered wording of the conditions. I have considered the appellant's comments regarding the timescales in the conditions.
23. It is necessary to attach a condition specifying the approved plans as this provides certainty. A condition relating to the external materials is necessary in order to preserve the character and appearance of the area.
24. Conditions relating to a construction management plan, waste management strategy, delivery hours, operating hours and ancillary plant/ equipment are necessary in the interests of protecting the living conditions of neighbouring occupiers. A condition relating to external lighting is also necessary in the interests of protecting living conditions of neighbouring occupiers and crime.
25. As the development has commenced a time commencement condition is not necessary. In addition, the Council has suggested a condition removing permitted development rights. There is no clear justification for such a condition and therefore, based on the evidence presented, I consider such a condition would be unreasonable and not necessary.
26. Conditions 2, 3, 4 and 8 are imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance relating to these conditions because permission is being granted partially retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of these matters before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met.

Conclusion

27. For the reasons given above, the appeal succeeds.

L M Wilson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P01 (Location plan & existing view), site as proposed shown on drawing P02A, P03A (Proposed floor plan, section and main elevation), P04A (Proposed side and rear elevations storage unit) and P05 (Proposed elevations- repositioned portacabin).
- 2) Unless within 3 months of the date of this decision details / samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 3 months of the date of this decision a Construction Method Statement, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented during the construction period for the development, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The Statement shall provide for:

- delivery and construction working hours;
- measures to control the emission of dust and dirt during construction;
- the parking of vehicles of site operatives and visitors; and
- a scheme for recycling/disposing of waste resulting from construction works.

If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved Construction Method Statement specified in this condition, it shall be adhered to throughout the construction period for the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within 3 months of the date of this decision the Waste Management Strategy (dated January 2021) and accompanying site location details, shown on plan P02A (site as proposed), is implemented, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as the Waste Management Strategy is implemented.

Upon implementation of the Waste Management Strategy specified in this condition, it shall thereafter remain in situ so long as the use continues.

In the event of a legal challenge to this decision, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Deliveries shall be taken at or despatched from the site only between 8am to 6pm on Mondays to Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
- 6) The premises shall only be open between 8am to 6pm on Mondays to Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
- 7) Before any externally mounted ancillary plant/ equipment is used on the premises, it shall be mounted in a way which will minimise transmission of structure-borne sound in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 8) Unless within 3 months of the date of this decision details of a lighting scheme for the illumination of external areas during the period between dusk and dawn, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.