



Appeal Decision

Site visit made on 15 March 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/N1920/W/21/3280498

96 Billy Lows Lane, Potters Bar EN6 1XL

- 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 Nimesh Dave against the decision of Hertsmere Borough Council.
 - The application Ref 20/1924/FUL, dated 24 November 2020, was refused by notice dated 9 February 2021.
 - The development proposed is 'change of use of residential outbuilding situated on applicant's private land from a household garage (24 sqm) to an office/storage space (B8).'
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Decision

1. The appeal is allowed and planning permission is granted for change of use of residential outbuilding situated on applicant's private land from a household garage (24 sqm) to an office/storage space (B8), at 96 Billy Lows Lane, Potters Bar EN6 1XL in accordance with the terms of the application Ref 20/1924/FUL, dated 24 November 2020, and subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The description of development given on the application form included superfluous details not describing an act of development. I have omitted these from the banner heading and formal decision above.

Main Issue

3. The main issue is the effect of the proposal on the residential character of the area, having regard to the nature of the use and potential for noise and disturbance to neighbouring occupants.

Reasons

4. The proposal seeks to convert a section of an existing detached garage to an office/storage space in connection with a proposed distance selling pharmacy business. The appellant sets out that the type of business proposed is strictly regulated by the General Pharmaceutical Council (GPhC). The appellant would be contracted by the NHS to manage prescriptions received electronically from doctors' surgeries.
5. The Council and several interested parties raise concerns regarding the impact of the proposal on the residential character of the area, including with respect to the hours of operation, noise and disturbance from deliveries and pickups by couriers and the potential for the type of stock being held to increase the risk of theft and other criminal activity

6. It is indicated that stock would be received between one and four times per month via regulated suppliers. Deliveries would take no more than five minutes and would be made by small courier vans, not large lorries, that would be able to park on the front drive of the property. The appellant further sets out that operations would occur during normal business hours and that onward deliveries would be made by the appellant themselves using their private vehicle or via couriers. No customers would visit the site at any time.
7. The surroundings are undoubtedly residential in character and I observed the street to be quiet, with no obvious sources of noise or non-residential activity and limited traffic, though I recognise my visit was in the early afternoon and not during peak travel times. The proposed change of use would affect a limited area, occupying a modest section of the existing garage. The main dwelling and the rest of the site would remain in residential use. The space would be mainly used for storage of small boxes and office work, neither of which would be expected to generate noticable levels of noise, and are not likely to be any more noticable to neighbours than normal domestic activity. I note the Council's Environmental Health & Licensing Officer reached similar conclusions in respect of noise and disturbance.
8. The frequency of deliveries to the site would also be low, at most once a week, with onward deliveries indicated to average two to three times per week. Given the increase in working from home prompted by the Covid-19 pandemic and the commensurate rise in delivery services for groceries, takeaways and online shopping, the anticipated number of deliveries and collections, even if slightly more than neighbouring dwellings, would not be excessive at one or two per day. The use of small vans would also be little different to normal domestic deliveries, and there is nothing in evidence to suggest they would generate abnormal levels of noise that would be a source of disturbance to neighbours.
9. Moreover, vans could park on the site itself and so would not cause obstruction to neighbours by parking on the road. However, even if this was necessary, there are marked parking bays immediately outside the site which are restricted only for one hour per day between 2pm and 3pm. Deliveries would also be short and would not lead to prolonged inconvenience for neighbours.
10. Overall, I am satisfied that the detail provided by the appellant is sufficient to understand the nature and extent of the proposed comings and goings, and I do not share the Council's concern that more precise details of the timings of deliveries or type of vehicles to be used are needed in order to sufficiently understand the impact of the proposal. I recognise, however, that deliveries outside of normal office hours could be a source of inconvenience if attempted during peak travel times or in the evenings when people return home and on-street parking spaces are in greater demand. Similarly, activity within the office/storage space outside of these hours may cause disturbance given neighbours are more likely to be at home at those times. Therefore, it would be necessary to condition the hours of use to avoid potentially harmful noise and disturbance to neighbouring occupants outside normal office hours.
11. In terms of the risk of crime, I note that the site has been visited by Police Designing Out Crime Officers who have indicated their satisfaction with the appellant's mitigation measures to address their initial comments relating to the security of the windows and doors, whether stock would be in suitably locked storage, and CCTV and alarm systems. I further note that the NHS and

GPhC have separate safety and security requirements which the appellant would be required to meet. Moreover, there would be no signage indicating the site was being used for storage of medicines, and the main dwelling would remain occupied by the appellant and his family, which would provide passive surveillance of the site beyond normal business hours. Given these factors, I am satisfied that the proposed storage area would be secure, and the risk of crime would therefore be low.

12. In summary, the main use of the property would continue to be a domestic residence, with the proposed office/storage area a minor additional use. On the evidence before me, I find that the proposed use would be limited in scale and would not lead to harmful increases in noise, disturbance, traffic, parking pressure or the risk of crime. Consequently, I find that the residential character of the area would be preserved, as would the living conditions of neighbouring occupants.
13. Therefore, I find no conflict with Policy CS16 of the Hertsmere Local Plan Core Strategy (January 2013) or Policy SADM30 of the Site Allocations Development Management Policies Plan (November 2016) (the SADMP). Together, these policies require that proposals do not create an unacceptable level of risk to occupiers of a site, the local community and the wider environment; that developments have limited impact on the amenity of occupiers of the site, its neighbours and its surroundings.
14. The Council also alleges conflict with Policy SADM42 of the SADMP. However, this relates to uses supported within town and district centres. It does not make reference to such uses being resisted outside of defined centres, and so I find no conflict with this policy.
15. Similarly, the Council cites conflict with Policies CS8 and CS9 of the CS. However, these relate to the scale and distribution of employment land and locally significant employment sites. On my reading of these policies, they are more relevant to larger scale schemes than the small scale proposal before me, but given I have found the proposal appropriate for its location, no conflict would arise in any event with these policies.

Other Matters

16. The only proposed external change is the replacement of the garage doors, to which no objection has been raised by the Council. I have no reasons to disagree and consider the proposal would preserve the appearance of the area.
17. The Council's Waste Team advise that waste from the proposed use would require a commercial waste licence to dispose of it, and using domestic bin collection would not be appropriate. I am content that a suitably-worded condition would secure a waste management plan for the proposed use.
18. I note other concerns raised in representations, including there being restrictive covenants on the land and the potential effect on neighbouring land values. However, these are separate matters not relevant to the planning merits of the proposal. Therefore I have not afforded weight to these comments.

Conditions

19. I have had regard to the conditions suggested by the Council. Where necessary, I have amended the wording to ensure they accord with the relevant tests of conditions set out in the National Planning Policy Framework.
20. A condition specifying the approved plans is necessary to provide certainty. As already indicated, a condition is also required in respect of the operating hours of the use, to protect the living conditions of neighbouring occupants. It is also necessary to secure a waste management plan to ensure proper waste management and avoid adverse environmental impacts.
21. There is a possibility that the use could intensify over time if the appellant is successful in establishing his business. The small scale nature of the stock means even within the modest storage area proposed, there could be significant turnover of stock, resulting in more deliveries than indicated. It is also possible that, within the B8 use class, other stock unrelated to a distance selling pharmacy could be distributed.
22. Therefore, to ensure the use operates at the scale proposed, I consider it necessary that further conditions are imposed to make the permission personal to the appellant to avoid the employment of additional or non-residential staff; to limit the use within Class B8 to the distance selling pharmacy business sought through the application and to limit the storage of goods to the area specified on the plans. The appellant has indicated their agreement to the imposition of these conditions.

Conclusion

23. For the reasons given, therefore, I conclude that the appeal should be allowed.

K Savage

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: Location Plan, Site Plan, Garage Elevation Plans, Existing and Proposed Floor Plans, Existing Sewage System, Thames Water Sewer System, Planning Statement.
- 3) The use hereby permitted shall be carried on only by Mr Nimesh Dave. When the premises cease to be occupied by Mr Nimesh Dave, the use hereby permitted shall cease.
- 4) The part of the garage subject to the permitted change of use shall be used for storage and distribution in connection with a distance selling pharmacy and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 5) The use hereby permitted shall be limited to the area to the rear of the garage as shown on the approved plans, and no storage of stock or other materials associated with the use hereby permitted shall take place to any other part of the site.
- 6) The use of the office/storage space hereby permitted, including deliveries to and from the site, shall take place between 9:00am and 5:00pm on Monday to Friday only.
- 7) The office/storage space hereby permitted shall not be brought into use until a waste management strategy including details of the provisions for storage has first been submitted to and approved in writing by the Local Planning Authority. The approved details shall be made available prior to the first occupation of the office/storage space and shall thereafter be made permanently available for the occupants of the office/storage space.

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