



Appeal Decision

Site visit made on 22 March 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2022

Appeal Ref: APP/W4515/W/21/3289790

Unit 14, Wesley Way, Benton Square Industrial Estate, Benton NE12 9TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Joseph Parr (Tyne & Wear) Ltd against the decision of North Tyneside Council.
- The application Ref 21/01510/FUL, dated 18 June 2021, was refused by notice dated 29 September 2021.
- The application sought planning permission for alterations to install new doors, windows, and access ramp, new 2.4m steel palisade fencing to entire perimeter, concrete re-surfacing of site and widening of existing access to 8.1m without complying with conditions attached to planning permission Ref 10/00552/FUL, dated 6 August 2010.

The conditions in dispute are Nos 1, 10 and 11 which state that: Condition 1: The development to which the permission relates shall be carried out in complete accordance with the approved plans and specifications; Condition 10: The holding area identified on the proposed site plan (Project no 2556 Dwg No A-01 Rev F) shall not be used to display goods for sale and there shall be no other external storage on the site; Condition 11: Any goods stored in the holding area shall not exceed a height of two metres.

- The reasons given for the conditions are: Condition 1: To ensure that the development as carried out does not vary from the approved plans; Condition 10: In order to protect the amenity of the surrounding area having regard to Policy LE1/7 of the North Tyneside Unitary Development Plan 2002; Condition 11: In the interest of protecting the amenity of the surrounding area having regard to Policy LE1/7 of the North Tyneside Unitary Development Plan 2002.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The outside area at the appeal site is already being used for storage largely as shown on the submitted drawings and therefore I have determined the appeal on that basis.
3. The reasons for the conditions set out in the banner heading refer to policies which pre-date the North Tyneside Local Plan (2017) (Local Plan). Both parties have referred to policies in the Local Plan and I have considered the proposal in the context of these.
4. The appellant refers to the outside storage having been used for more than 10 years. Within the context of this appeal under section 78 of the Act it is not my

remit to formally determine whether the outside storage is lawful. If the appellant wishes to ascertain whether it would be lawful an application can be made under section 191 of the Act.

5. Since the appeal was submitted the Council has refused permission for the variation of conditions 12 and 13 of the original planning permission. These conditions sought the implementation of a landscaping scheme. A Breach of Conditions Notice (BCN) has been served on the appellant in respect of these conditions but I have no details of the BCN before me and no details of the approved landscaping scheme.

Background and Main Issue

6. A timber and builders merchant business is trading at the appeal site. The planning permission¹ restricts outside storage within the parameters of conditions 1, 10, and 11 as set out in the banner heading above. The appellant is seeking to vary the conditions to permit a greater level of outside storage than that originally permitted.
7. Having regard to the above, the main issue is the effect that varying conditions 1, 10 and 11 would have on the character and appearance of the area and the living conditions of nearby residential properties with regard to outlook.

Reasons

8. The appeal site is located on the corner of Whitley Road and Wesley Way within the Benton Square Industrial Estate. Wesley Way is a distributor road through the estate and development adjacent to it is of an industrial character. Whitley Road is a main through route with mostly residential development opposite the appeal site and on the approach to Wesley Way from the Holystone roundabout.
9. The open forecourts to the front of the industrial sites adjacent to Whitley Road and the lower ground level of these sites reduces the visual significance of the industrial buildings from the Whitley Road frontage. In addition, the mature trees, hedges, and grass verges along Whitley Road contribute positively to the character and appearance of the area and the setting of the residential and commercial buildings.
10. The trees within the verge adjacent to Whitley Road next to the rear and side of the appeal site are densely planted and filter views from the residential properties opposite. The outside storage behind the trees is not a prominent or intrusive feature of the Whitley Road street scene.
11. Further, the temporary shelving visible from Wesley Drive is seen in the context of other industrial development and located where the street is dominated by car parking and hard surfaced areas. The temporary shelving is not out of place and does not harm the adjacent industrial environment.
12. Nevertheless, because of the appeal site's prominent corner location at the edge of the industrial estate, the height and amount of outside storage on the forecourt between the buildings and Wesley Way, is openly viewed from Whitley Road. The storage draws the eye and is an unsightly and conspicuous addition to the street scene.

¹ 10/00552/FUL

13. The appellant considers that the appeal site is not within a mixed-use area, rather, Whitley Road is the interface zone between the residential and commercial uses along it. However, even though land uses of different types are located adjacent to Whitley Road, the outside storage on the exposed forecourt area influences the overall character of Whitley Road and is detrimental to the adjacent residential environment and the character and appearance of the Whitley Road frontage. Residential properties on the corner of Whitley Road and St Aidan's Avenue overlook the site and due to the nature of the storage and its effect on the area's character and appearance, their outlook is detrimentally affected.
14. Although the provision of artificial planting to the site boundaries is suggested, there is no information of the form of such artificial planting before me to assess. Further, even though the Council has refused permission to vary the conditions requiring landscaping to the site boundaries, the drawings before me do not provide any clarification that boundary landscaping is proposed.
15. I appreciate that the business employs local people, and that outside storage is a typical element of a timber and builders merchant operation. However, the original site layout did not anticipate the need for significant external storage. Whilst there may have been events that have increased the need for outside storage there is limited evidence that the less prominent parts of the site or the original holding area could not provide for the storage needs of the business moving forward.
16. Overall, the variation of conditions 1, 10 and 11 in the way proposed would result in outside storage that would be detrimental to the character and appearance of the area and the outlook of adjacent residents in conflict with Policies S1.4, DM2.3 and DM6.1 of the Local Plan. These policies seek to ensure that development has a positive relationship to neighbouring buildings and spaces. There would also be conflict with the National Planning Policy Framework (the Framework) where it seeks to ensure that development is visually attractive as a result of good layout and appropriate and effective landscaping and creates places with a high standard of amenity for existing and future users.

Other Matters

17. Although it may be possible to provide screen planting outside the site, no such proposals are before me and therefore this possibility has not influenced my assessment.
18. I acknowledge the many concerns of residents about the site's use; however, my appraisal relates only to the matters relevant to the variation of the conditions before me which I have addressed above.

Conclusion

19. For the reasons given above, I conclude that the proposed variation of conditions 1, 10, and 11 would conflict with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

Diane Cragg, INSPECTOR