



Appeal Decision

Site visit made on 10 June 2022

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2022

Appeal Ref: APP/W0530/W/21/3287608

**Eastern Counties Leather, London Road, Pampisford, Cambridgeshire
CB22 3EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Eastern Counties Leather against South Cambridgeshire District Council.
 - The application Ref 21/01975/FUL, is dated 27 April 2021.
 - The development proposed is removal of two temporary buildings and the construction of a new single storey footwear goods store.
-

Decision

1. The appeal is allowed and planning permission is granted for removal of two temporary buildings and the construction of a new single storey footwear goods store at Eastern Counties Leather, London Road, Pampisford, Cambridgeshire CB22 3EF in accordance with the terms of the application, Ref 21/01975/FUL, dated 27 April 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Following the submission of the appeal against non-determination, the Council stated the position it would have taken if it had made a decision. The following main issue has been informed by the Council's appeal statement.
3. There are two buildings within the site that the appellant describes as temporary. It is undisputed that those buildings do not benefit from planning permission. I have made the decision on that basis.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring residential properties, with particular regard to outlook from 9 to 12 South Terrace.

Reasons

5. The site comprises land at an industrial estate that includes buildings of varying sizes and designs. South Terrace features dwellings with habitable rooms that face towards the carriageway and the industrial estate beyond it. Close boarded fencing is located at the boundary between the industrial estate and the carriageway.
6. The proposed goods store would have a dual pitched roof. According to the Council, it would be approximately 3 metres in eaves height, 4.9 metres in

ridge height and 27 metres in length. Additionally, the Council states that it would be more than 10 metres from the front elevations of Nos 9 to 12. The store would be set at a slightly lower land level than South Terrace.

7. As a result of the land level difference, the store's dimensions and roof design and the separation distance between it and the dwellings in South Terrace, the occupiers of Nos 9 to 12 and the other nearby properties would have adequate outward views towards the carriageway. Skyward views above the store would be achievable from the properties too. The store would not affect outlook to the extent that it would be oppressive or result in over enclosure or overbearing.
8. The store's rooflights would offer similar views towards the residential properties to those from standing within the existing site. The proposal would not significantly affect privacy. The Council has confirmed that the proposal would accord with relevant Building Research Establishment guidelines¹ in respect of day and sunlight. The store's light impacts on the neighbouring properties would be acceptable having regard to its size and position.
9. The Council does not allege that the proposal would be harmful in respect of noise and disturbance. Moreover, its Environmental Health team has no objection on such grounds. A goods store would be unlikely to generate significant levels of noise or disturbance particularly in the context of the established industrial estate, and there is no substantive evidence present which suggests that unacceptable levels of noise or disturbance would be generated in this case. However, a condition to require that the store is used for storage purposes would be necessary to protect the neighbours' living conditions. Additionally, conditions to control the construction arrangements and limit the construction hours and associated delivery times would protect living conditions during construction. The construction details must be approved prior to development beginning to ensure the process is acceptable.
10. The proposal would not have an unacceptable effect on the living conditions of the occupiers of Nos 9 to 12 or any other nearby residential properties. It accords with Policy HQ/1 of the South Cambridgeshire Local Plan (LP), which requires development to protect the health and amenity of the occupiers of property.

Other Matters

11. Policy E/4 of the LP sets out that the industrial estate is allocated for employment purposes within Class B1². However, the proposal would support the expansion of an established business within the estate. The Council has no objection to the proposal for that reason and there is no compelling evidence before me which suggests that I should conclude otherwise.
12. The design of the store would be similar to the design of other buildings within the estate. Although the store would have a significantly different appearance to the properties in South Terrace, it would be viewed in the context of and be compatible with the rest of the industrial estate. Therefore, the proposal would not harm the character and appearance of the area.
13. The Highway Authority considers that a transport statement should have been prepared to assess the highway impacts of the proposal. The appellant has

¹ Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

² Set out within Part B, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987

advised that there would be no additional activity and traffic generation as a result of the development as it would replace an existing store on the estate. On that basis the Council has raised no concerns regarding highway impacts, and I see no reason to reach a different conclusion. Concerns regarding fire risk and crime have also been raised, but convincing evidence to suggest that the proposal would be at any particular risk from fire or crime has not been presented. In addition, there is no firm evidence indicating that the proposal would give rise to unacceptable air pollution or odour impacts.

14. Concerns have been raised that the store would not be constructed in accordance with the plans or used for its proposed purpose. However, there is no compelling evidence that those outcomes would be likely. Furthermore, a condition to require that the development accords with the plans and the aforementioned condition to require that the store is used for storage would address these matters, and would be necessary in any case for certainty.
15. It has been advanced that the appeal should be dismissed as the existing buildings on site are unauthorised. It is also argued that those buildings should be removed. However, the status of those buildings and whether any enforcement action should be taken is not directly relevant to this appeal, which I must determine on its own merits. It has also been raised that the store would be more appropriately located elsewhere in the industrial estate. However, for the above reasons the proposal would not be unacceptable and thus it is irrelevant whether the store could be sited elsewhere.

Conditions

16. The Council recommended a series of conditions in the event the appeal is allowed. I have considered whether the proposed conditions meet the tests set out at paragraph 56 of the National Planning Policy Framework. In order to satisfy those tests, minor editing of some of the conditions is necessary.
17. In addition to the standard time condition and the ones already identified, a condition to require the approval of a scheme for the disposal of surface and foul water is needed to ensure adequate provision and mitigate flood risk. This must occur before development commences to ensure that the scheme can be delivered before the store is constructed. Additionally, a water conservation strategy is needed in the interests of environmental sustainability.
18. The appellant's geo-environmental desk study report identifies that further investigative works are carried out. Conditions to ensure that any land contamination is identified and dealt with is thus necessary in the interests of public health and the environment. The contamination investigations need carrying out prior to commencement to increase the likelihood that contamination will be addressed prior to construction work beginning. The appellant has agreed to the pre-commencement conditions.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed and planning permission should be granted.

Mark Philpott

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: 2003:06; 2003:07; 2003:08.
- 3) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include provision of the following, which shall be adhered to throughout the construction period: (a) full details of any piling techniques to be employed; and (b) contact information for the site manager(s) including details of how that contact information will be displayed on site.
- 4) No development shall take place until a scheme for the disposal of surface water and foul water that can be maintained for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the building being used.
- 5) No development shall take place until: (a) the site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and submitted to and approved in writing by the Local Planning Authority; and (b) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (a remediation method statement) have been submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the building hereby permitted being used, the works specified in the remediation method statement detailed in condition 5 shall be completed and a report to verify those works have been undertaken shall be submitted to and approved in writing by the Local Planning Authority.
- 7) If during remediation or construction works any additional or unexpected contamination is identified, then details of a remediation proposal for the contaminated material shall be submitted to and approved in writing by the Local Planning Authority before any other work continues. The remediation proposal shall be implemented in accordance with the approved details prior to the building being used.
- 8) Prior to the building hereby permitted being used, a water conservation strategy which demonstrates a minimum water efficiency standard equivalent to the BREEAM standard for 2 credits for water use levels, unless demonstrated to be impracticable, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) Demolition or construction works, or associated deliveries received to or dispatched from the site, shall take place only between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday, and shall not take place at any time on Sundays or Bank or Public holidays.

- 10) The building hereby permitted shall be used for storage and for no other purpose (including any other purpose in Class B8 of Part B, Schedule 1 of 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).