



Appeal Decision

Site visit made on 27 July 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Appeal Ref: APP/A2335/W/22/3296344

Parkfield Garage, Bowerham Road, Lancaster LA1 4BN

- 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 DP Letting Ltd against the decision of Lancaster City Council.
 - The application Ref 21/00536/FUL, dated 22 April 2021, was refused by notice dated 30 December 2021.
 - The development proposed is erection of a retail unit (Use Class E(a)).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal documentation includes 2 amended plans, drawing numbers J1571-01 Rev A and J1571-02 Rev A. These plans substitute the use of red brick for the facing materials of the proposed building with stone in order to address in part, issues raised by reason for refusal number one. As the Council has no objection to the proposed substitution and no party would be prejudiced, I have dealt with the appeal based on the amended plans.

Main Issues

3. The main issues are the effect of the proposed development upon the character and appearance of the area, highway safety, and the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Character and Appearance

1. The appeal site relates to a vacant plot of land on the corner of Bowerham Road and Avondale Road. The remains of a former building including a concrete pad, rear retaining wall and 3 ground floor walls are in situ. The surrounding area is predominantly residential, characterised principally by small scale 2-storey Victorian sandstone terraced properties, with a more modern 2-storey rendered housing development to the north.
2. The proposed single storey building would have a deep plan form that does not take account of the original sloping topography of the site. The shallow pitched roof and squat, horizontal scale would contrast with the narrow, vertically proportioned dwellings surrounding the site. The proposed building would have a numb, bland and utilitarian appearance with the exception of the porch, that itself would form an incongruous feature due to the extent of its forward projection and oversized stanchions.

3. Without a detailed plan showing the internal configuration of the proposed shop, it is unknown whether the window openings in the front and side elevation would provide an active shopfront. Even if the windows were to allow internal views, they would not have the vertical proportions or architectural detailing of the shop fronts found elsewhere within the street scene. Although it is appreciated that the building is required to meet a particular function as a retail premises, this does not justify new development that fails to take account of its context and the local distinctiveness of the area.
4. The proposed amendment to alter the proposed facing materials from brick to stone would be a positive improvement to the appearance of the proposed building, given the prevalence of stone within the street scene. It would however, do little to address the overall scale and form of the development.
5. The presence of existing dilapidated development on the appeal site that does not contribute positively to the area, does not justify permitting development that does not take account of the surrounding context. There are likely to be other options available to improve its appearance, other than the proposal before me.
6. The Council has indicated concerns relating to the lack of information regarding bin storage and ventilation equipment. These concerns have been articulated predominantly as a character and appearance issue, relating to the appearance of the site. I agree that external ventilation equipment and bin storage could appear unsightly, particularly if located on either of the 2 publicly visible elevations. Although bin storage is marked on the proposed site plan it is not shown on the proposed floorplan. Internal bin storage may not be practical for any retail use selling food. Whilst such matters could be secured by condition, given that they have the potential to affect the external appearance of the building which would be publicly prominent, I find that it would not be reasonable to do so in this instance. Furthermore, the size, position and layout of the proposed building leaves little option but to site any bin storage area to the front of the proposed shop, at least on waste collection days, which is likely to further harm the appearance of the street scene.
7. Notwithstanding the acceptability of the amended facing materials, the proposal would adversely affect the character and appearance of the area. It would therefore conflict with Policies DM21 and DM29 of the Local Plan for Lancaster; Part 2, Review of the Development Management DPD 2020 (Local Plan) which amongst other things, seek to ensure that new development makes a positive contribution to local distinctiveness through good design, and that new shop fronts enhance the visual amenity of the area. There would also be conflict with paragraphs 126, 130 and 134 of the National Planning Policy Framework (the Framework), which requires high quality development that responds to and reflects the identity of the surroundings.

Highway Safety

8. Bowerham Road is part of a designated cycle network. It is further accessible by a regular bus service and has frequent pedestrian activity, due to the proximity to the university campus and the Bowerham Road local centre. Journeys to the proposed shop would not therefore be solely reliant on the private car.

9. The location of the service bay to the front of the proposed shop is a cause for concern. It is not known whether delivery vehicles would be required to back up to the service doors over the forecourt and pavement to the front of the shop, or whether they would park on Bowerham Road and unload from there. Either way, conflict from deliveries is likely to occur given the high level of pedestrian activity along Bowerham Road.
10. There are designated car parking bays to the front of the appeal site with parking restricted between 0800 and 1800 hours Monday to Saturday. Cars parked in these bays would restrict access for delivery vehicles, particularly given that the proposed service bay does not align with the H-bar across the dropped curb access to the appeal site. Delivery vehicles would therefore be required to wait in the highway, resulting in conflict with other highway users and causing congestion on a main thoroughfare into Lancaster city centre. It cannot be assumed that these spaces would only be used by customers briefly accessing the proposed shop. Drivers could legitimately park for up to one hour while visiting nearby dwellings, or other shops within the Bowerham Road local centre. A condition requiring a servicing plan to be agreed would not mitigate the highway impact of the proposal given that the behaviour, frequency and duration of public on-street car parking cannot be controlled by the appellant.
11. Notwithstanding the above, short-stay car parking is available along Bowerham Road with additional on-street car parking in the nearby side roads. Although a snap-shot in time, I saw that these parking areas were well used, but that on-street car parking did not appear to have reached saturation point. Even if staff or customers did park on surrounding streets, it would not appear that they would be forced to park illegally or dangerously. There is no evidence before me that the cumulative impacts of on-street car parking would be severe or result in material harm to highway safety or congestion. The provision of on-plot car parking spaces particularly where they would be visible from within the street scene of Bowerham Road would also be contrary to the prevalent character of the area. Facilities for cycle parking could be conditioned were I minded to allow the appeal, given the availability of space between the front of the proposed building and the pavement.
12. Notwithstanding my findings with regard to the need for on-plot car parking, the proposed development would result in a significant and adverse effect on highway safety. The proposal therefore fails to accord with Policies DM29, DM57 and DM61 of the Local Plan (2020) which seek to ensure highway safety is maintained or improved. Conflict is also found with paragraphs 104, 110, 111 and 112 of the Framework which aim to prevent unacceptable impacts on highway safety and prioritise pedestrian and cycle movements.

Living Conditions

13. A first floor flat exists to the north at 56b Bowerham Road, the occupants of which are likely to experience some disturbance from the existing commercial premises directly below. However, I saw that such activity would not extend until late into the evening, as would be the case with the proposed development. Noise and general disturbance generated by the comings and goings of staff, customers and delivery drivers potentially late into the night would be experienced by the occupiers of nearby residential properties including No 56b, in an area which has no other such late night uses in the immediate vicinity.

14. Even if I were to impose conditions restricting delivery times and limiting the opening hours until 2230, it would enable the use and associated comings and goings to continue well past a time when residents could reasonably expect a lack of any such disturbance. Any noise and disturbance from deliveries is likely to be exacerbated by the conflicts with pedestrian and other highway users as highlighted above. Conditions would not therefore adequately mitigate the harm and make the proposal otherwise acceptable.
15. In respect of ventilation equipment, given the proximity of dwellings nearby and the potential for such plant to be operated for over 15 hours 7 days per week, I cannot be sure that the noise levels from such equipment would be acceptable. Whilst it can be commonplace for matters of ventilation to be conditioned as part of a planning approval, there is scant information before me in relation to this matter. Dealing with the matter by condition would not give interested parties the opportunity to comment.
16. Whilst a SPAR may be located near to the appeal site, I am not aware of the circumstances of when this development was permitted including the planning policy context, or whether there are any restrictive conditions relating to the operation of the business, including deliveries. Its presence does not therefore justify the development now before me.
17. The proposed development would have an adverse effect on the living conditions of neighbouring residents, with particular regard to noise and disturbance. The proposed development would fail to accord with Policies DM29 and DM57 of the Local Plan (2020) which seek amongst other things, that development does not have a detrimental impact on amenity through noise pollution. Conflict is also found with paragraph 130 of the Framework which aims to provide a high standard of amenity for existing users.

Other Matters

18. The Planning Practice Guidance (PPG) is clear that pre-application advice cannot pre-empt the democratic decision making process, or a particular outcome in respect of a formal planning application. These matters do not affect my overall findings.
19. Since I have found that the absence of on-plot car parking would not be harmful to highway safety, I have not referred to Policy DM62 of the Local Plan (2020) in my decision.

Conclusion

20. Whilst I have found that the proposed development would be acceptable without dedicated car parking provision, this does not outweigh my overall findings in respect of highway safety and the effect of the development upon the character and appearance of the area and the living conditions of neighbouring occupiers, with which I have found harm. There are no material considerations in this instance that lead me to find other than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR