



Appeal Decision

Site visit made on 12 July 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Appeal Ref: APP/X4725/W/22/3292664

31 Warwick Street, Wakefield WF1 5BJ

- 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 Ashraf against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 21/01484/FUL, dated 6 June 2021, was refused by notice dated 19 August 2021.
 - The development proposed is described as 'conversion to form repair garage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties agree that the site is already being used as a repair garage and this was evident on my site visit. As such, the appeal is determined on a retrospective basis.
3. I understand a previous application for a Certificate of Lawful Use or Development was refused¹ by the Council and the subsequent appeal dismissed². Both decisions were on the basis that the use of the site as a repair garage was in contravention of an enforcement notice requiring the unlawful use cease, and the Certificate could therefore not be granted in either case. I am presented with evidence that the business has operated as a repair garage for over 10 years with signed statements and various invoices and other letters dated over this time period.
4. I am also informed that the use class of a garage has changed since the Town and Country Planning (Use Classes) Order (1987) was amended in September 2020 with the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. It is argued that the former B1 use would have been the same as the former joiner's workshop and therefore acceptable. Be that as it may, I must determine the appeal based on the circumstances at this moment in time.
5. Moreover, the appeal before me is not for a Certificate of Lawful Use or Development. I must determine the scheme as it is presented to me, based on a refusal of planning permission. Given the previous planning application and appeal were not successful, this does not represent a valid fallback position, nor am I in a position to grant a Certificate declaring the lawfulness of the use.

¹ 19/02337/CPE

² APP/X4725/X/20/3252776

Main Issues

6. The main issues are the effects of the garage on highway safety and on the living conditions of occupiers of adjacent properties.

Reasons

Highway Safety

7. The appeal site comprises an area of land which adjoins the side of No.31 at the end of Warwick Street, which is a cul-de-sac. The site is set behind metal gates and evidently includes buildings for storage and working on vehicles. The submitted block plan includes three parking spaces, with two of these opposite the entrance and one perpendicular lining the side of the property.
8. The Council's Highways team offered comment on the scheme, advising that the parking spaces do not meet the minimum size standards outlined in Council guidance. Furthermore, that there is also insufficient space to turn or manoeuvre within the appeal site to allow vehicles to exit in a forward gear. There is also anecdotal evidence from interested parties that vehicles are often left on the street when awaiting repair or their owners to collect them, leading to increased parking pressure.
9. Due to the arrangement of parking spaces, there would be little available space for turning within the site, particularly if all three spaces were occupied. This would require egressing vehicles, whether customers or deliveries, to reverse back out onto Warwick Road. I observed on the site visit that there were many parked vehicles lining both sides of the street. During busier periods, such as evenings and weekends, the likely scenario would involve vehicles having to reverse up a significant distance, or perhaps the whole length, of Warwick Street to exit. This would present a significant collision risk when vision would be compromised in reverse, particularly where the host street meets the junctions with Back Warwick Street and Ibbotson Street.
10. Based on the above, the change of use would be harmful to highway safety, contrary to Policy D9 of the Local Development Framework Development Policies (DP) (adopted April 2009). This seeks to ensure development proposals incorporate arrangements for access of vehicles, among other things. The proposal would also be contrary to the National Planning Policy Framework (the Framework), which states in paragraph 110 that a safe and suitable access for all users should be achieved.

Living Conditions

11. The appeal site is set at the end of a cul-de-sac of terraced properties in a residential area. While there are several commercial businesses along Agbrigg Road, I observed that Warwick Street itself was generally quiet at the time of my visit.
12. The day-to-day activities of the garage would evidently involve the use of power tools, hammers, metal work and car engines being started and revved. In a residential street this would cause significant noise disruption to occupiers of adjacent properties. Although the appellant intends to carry out a noise report, I have nothing before me at this time to indicate how noise would be managed and mitigated to ensure the living conditions of local residents are not harmed.

13. Moreover, given the proximity of dwellings to the garage, there is significant risk of air pollution from the aforementioned revving of engines during repairs, services or other processes carried out at the site to neighbouring dwellings. During warmer months, when windows are open, this carries a potential adverse health risk for more vulnerable people, such as those with breathing issues and there is nothing before me to indicate how this risk would be managed and/or mitigated. Although I understand the appellant is willing to agree to shortened opening hours, this would not lessen the effects of the harm I have identified during the hours the business would be operating. As such this would not be adequate mitigation.
14. Accordingly, the proposal would harm the living conditions of nearby residents, contrary to Policies D9 and D20 of the DP. These seek to ensure development has no significant detrimental impact on the amenity of neighbouring users, while also demonstrating with regards to proposals that are likely to cause pollution, that measures can be implemented to minimise emissions to a satisfactory level that protects health, environmental quality and amenity. The proposal would also be contrary to paragraph 130 of the Framework which advises development should ensure a high standard of amenity for existing and future users.

Other Matters

15. I have had regard to supporting comments received from interested parties. The business is evidently popular in the area and well used by local people, who form the majority of the clientele. I am also informed the business supports some employment. However, these benefits must be balanced against the harm identified. In this case, the harm is substantial and not outweighed by the benefits, of which I have little substantive information regardless.
16. The appellant has outlined some measures which could be taken to reduce the harm. However, these are generally scarce in detail. It is claimed there is available space for 6-10 additional parking spaces in total within the appeal site. However, these are not marked on a plan or drawing, and I have no information before me as to whether these are achievable. Similarly, while reference is made to parking available at a relative's property, I have few details of this before me or any kind of offsite planning obligation to secure this arrangement. I am informed of anti-social behaviour having occurred historically at the site, and that other similar businesses operate at residential properties in the area, although I have little information on these matters before me. Accordingly, they carry little weight in favour of the scheme.

Conclusion

17. The proposal would conflict with the development plan taken as a whole. Although I appreciate the desire of the appellant to run their business, there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR