



Appeal Decision

Site visit made on 15 November 2022

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/M2270/W/21/3284712

80 London Road, Southborough, Tunbridge Wells TN4 0PP

- 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 Moon, Ability (Heating and Plumbing Engineers) against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/02557/FULL, dated 24 July 2021, was refused by notice dated 21 September 2021.
 - The development proposed is two year temporary use of rear yard as part covered storage for business.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under section 55 of the Town and Country Planning Act 1990 (as amended) 'development' is split into 'operational' matters, such as building and engineering works, and the making of a 'material change of use'. The description of the proposal in this case makes clear that it relates to the 'use' of the land.
3. Where a material change of use occurs certain 'ancillary' matters, which can include operational development, can form part of that material change of use.
4. The development the subject of this appeal application has taken place. The area is being used as a storage area for the business taking place in the premises at the front of the site. Furthermore, a structure made of scaffolding with translucent fabric sheeting side walls and a solid corrugated sheeting roof covers approximately half the depth of the site for its whole width. Under the covered area is located a storage container.
5. It is not part of a planning appeal of this type to determine whether any of the matters the subject of the application is lawful. Rather, I am to judge the application as applied for.
6. The Council's reasons for refusal relate predominantly to the physical effects of the scaffolding structure, and the appellant's grounds of appeal deal with this. I therefore consider that no party would be prejudiced by my considering the appeal on the basis that it includes the scaffolding structure. I have also considered the proposal as an integral whole so that if one element is unacceptable then the whole would fail.

Main Issues

7. The main issues are the effect on:

- the character and appearance of the area; and
- the living conditions of the occupiers of the properties on either side.

Reasons

Character and appearance

8. The appeal site lies on London Road. It is a semi-detached two-storey property where the roof space has been converted with the use of a dormer in the front elevation. To the rear of the property is an open yard laid to hardstanding. This extends through to Bedford Road. The properties here are two storeys in height and have a more residential character when compared to the commercial properties, at least on the ground floor, facing London Road. The appeal site can be readily seen through mesh gates, although the angle of view is quite narrow due to the adjoining buildings facing Bedford Road.
9. The scaffolding structure appears as an incongruous element within the street scene when viewed from Bedford Road and from the areas at the rear of neighbouring properties. While set back from the road and to the rear of the property to the south, the height and the materials appear out of keeping with the area. The materials used are particularly out of place when considering the traditional materials otherwise used in the area. The design of the building appears entirely utilitarian and is visually harmful.
10. As such the development is harmful to the character and appearance of the area. It is therefore contrary to Policy EN1 of the Tunbridge Wells Borough Local Plan 2006, and Core Policies 4 and 5 of the Tunbridge Wells Core Strategy 2010 which all seek good design. It is also contrary to paragraph 130 of the National Planning Policy Framework which states that planning decisions should ensure that developments are visually attractive and sympathetic to local character and history.

Living conditions

11. The height of the scaffolding structure is such that it materially harms the outlook from all the properties which surround the appeal site to the rear of 80 London Road and is overbearing to all. In this regard it matters not whether they are in residential or commercial use, or vacant since they could be occupied without further planning permissions. Although the translucent material allows some light to travel through the structure, it and the solid roof harmfully reduces daylight for the occupiers of these properties, and for occupiers of the property to the north the amount of sunlight.
12. Consequently, the development harms the living conditions of the occupiers of neighbouring properties. It is therefore contrary to Policy EN1 of the Tunbridge Wells Borough Local Plan 2006 and paragraph 130 of the National Planning Policy Framework which states that planning decisions should create places with a high standard of amenity for existing users.

Other Matters

13. The appellant has requested a two year temporary permission to allow it to find other suitable premises. The National Planning Practice Guidance (Reference ID: 21a-014-20140306) indicates the circumstances where a temporary permission may be appropriate. These include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.
14. As I have seen the effects there is no need for a further trial run. I have not been advised of any specific change in planning circumstances that is likely to take place, for example a potential change in development plan designation. I have also not been advised of any personal circumstances from the appellant such as the end of a particular contract so the need for the structure will cease. I therefore conclude that a temporary permission would not be appropriate.

Conclusion

15. The proposed development is contrary to the terms of the development plan taken as a whole, and there are no other material considerations that indicate a different decision should be taken. Consequently, for the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR