



Appeal Decision

Site visit made on 30 November 2022

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH JANUARY 2023

Appeal Ref: APP/P0119/C/22/3303348

Frampton Garage, 6 The Causeway, Coalpit Heath, Bristol BS36 2PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Paul Endicott of Frampton Garage against an enforcement notice issued by South Gloucestershire Council.
 - The notice was issued on 28 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a building used as a workshop and store.
 - The requirements of the notice are: 1. Remove the wooden extensions from the building and the constituent materials from the land. 2. Cease the use of the building as a workshop. 3. Remove all permanently fixed plant and machinery from the building, used in association with the workshop use.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a) appeal

Main Issues

2. The main issues in this ground of appeal are:
 - The effect of the building and extensions on the character and appearance of the surrounding area.
 - The effect of use of the building as a workshop on the living conditions of occupiers of adjoining residential property, having regard to noise and disturbance.
 - The effect on highway safety.

Reasons

Character and appearance

3. The appeal site is occupied by buildings used in association with a vehicle maintenance and repair business. The larger of the three buildings has a rectangular footprint with a double pitched roof form and is sited adjacent to The Causeway. The west-facing elevation of the building at a right angle to the

street contains two large roller shutter doors. The doors open out from two vehicle service bays. Single storey extensions have been erected along the street-side elevation of the building and along the boundary with adjoining residential property to the east. The appellant also operates a nearby vehicle maintenance and repair premises fronting onto an adjoining street, Lower Stone Close. Apart from the appellant's premises the environs are largely residential in character, being made up of dwellings which vary in terms of their age, architectural style and materials, with a few shops and other small-scale commercial uses in the wider area.

4. The planning history of the site includes permission granted in March 2018 for a building for storage and staff facilities ancillary to the appellant's nearby workshop premises¹. Compared to the drawings accompanying that permission, the building is set back slightly further from the frontage boundary behind a wall and tall close boarded fence, also being set back from similar fencing adjacent to the east boundary. Furthermore, the building has a considerably larger footprint, being rectangular as opposed to L-shaped, so as to provide a two-bay vehicle maintenance and repair facility. It was not disputed however that in terms of its siting, form, scale and external materials, the building successfully integrates with the pattern of local development. There is no sound reason why I should find otherwise.
5. The single storey extensions occupy much of the limited space previously available between the street-side elevation of the building and the frontage boundary treatment, as well as a similar space between the east-facing elevation and the boundary with adjoining property. The external walls of the extensions are constructed in timber, whilst the monopitch roofs vary in terms of their angle and profile and are covered with differing materials. The use of timber on the external walls gives the extensions a lightweight, insubstantial and utilitarian feel. This does not sit easily alongside the more durable and permanent qualities of the natural stone, rendered masonry and brick detailing used on the external walls of the building, which reflect the external wall materials of other buildings in the locality. Staining the timber walls in a colour similar to that of the frontage fencing has failed to successfully assimilate the extensions with the building and surrounding development. Additionally, the differing materials and profiles of the roofs neither respect nor reflect the steeper angled roof pitches and dark-coloured concrete tiles of the building and nearby structures.
6. Due to the above factors, the extensions have an uncomfortably cramped and restricted appearance. They relate poorly to the form and external materials of the building and the general pattern of local built development, being viewed as somewhat makeshift and haphazard accretions. The extensions are therefore seen as alien features, both in relation to the building and their surroundings. The differences in roof profiles and external materials are apparent in street views, notwithstanding the height of the fencing along the frontage and on the east boundary. Application of an alternative colour treatment to the walls is unlikely to result in an improved outcome. Consequently, the extensions have caused unacceptable harm to the character and appearance of the surrounding area.

¹ Council Ref: PT18/0075/F.

7. Reference was made to the planning permission granted for certain development by Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, any means of enclosure erected pursuant to the permission granted by the GPDO at Part 2 is unlikely to provide secure storage. Consequently, in my view it is unlikely that the appellant would erect fencing or walls following removal of the extensions. In any event, such means of enclosure are unlikely to have a visual impact comparable to that of the extensions. Erecting additions which, as in this instance, would be within 5 m of the site boundary, would not be granted permission by the GPDO Part 7 having regard to the limitation at paragraph H.1(e). In the absence of details, it is not possible to compare the extensions with other additions that might be erected pursuant to Part 7, or to assess whether such development was likely to be carried out following removal of the extensions. As a result, I am not persuaded that there is a realistic prospect of similar development which complies with the GPDO being undertaken following compliance with the notice. Similarly, any external storage taking place in the spaces between the frontage and eastern site boundaries in future is unlikely to have visual consequences akin to that of the extensions.
8. The failure of the extensions to achieve the highest possible standard of design, respecting the character and distinctiveness of the site and its context in terms of siting, form, detailing, colour and materials does not accord with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy (CS). Furthermore, the extensions do not accord with Policy PSP1 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (LP), as they do not demonstrate an understanding of and respond constructively to the buildings and characteristics that contribute positively to local distinctiveness. Additionally, the failure to achieve a well-designed place is inconsistent with the National Planning Policy Framework (the Framework).

Living conditions

9. The site is largely surrounded by residential property. There is a busy 'A' road several hundred metres away. Even so, prior to the workshop use occurring most noise and disturbance experienced by adjoining residential occupiers is likely to have originated from traffic accessing local streets, or from the appellant's nearby workshop premises. As a result, although background noise levels might be higher at times, adjoining residential occupiers might for the most part reasonably expect to enjoy a good degree of peace and quiet, with relatively low levels of noise and disturbance, consistent with the largely residential surroundings.
10. According to the appellant's noise assessment, the workshop operates between the hours of 0800-1800 Monday to Friday and 0800-1300 on Saturdays. The assessment identified sources of noise from activities associated with the workshop use including a radio playing, hammering, use of power tools and vehicle engine sounds. The assessment took account of the tonal and/or impulsive elements of some of the noise sources, as well as insulation provided by the building and shielding features such as boundary fencing and gates. It found that when the workshop is operating with the roller shutter doors fully open the level of noise experienced is likely to be indicative of an adverse impact on three residential properties, with an increase in noise likely to be indicative of a significant adverse impact at another residential property.

11. Consequently, the workshop use has involved additional noise and disturbance being experienced by at least four adjoining residential properties at levels which contribute to a significant and unacceptable erosion in the living conditions previously enjoyed by occupiers. Mitigation was recommended, relating to the installation of acoustic absorption materials within the building and to the site entrance gates. Management measures were also recommended as part of the mitigation, including keeping the doors closed whilst the workshop is in use for higher noise-generating activities where practical or leaving them half-open when ventilation is required.
12. Requiring the submission and approval of a scheme of acoustic insulation and its subsequent implementation could be secured by imposing a suitable condition, were I minded to allow the appeal and grant planning permission. However, any condition requiring keeping the doors closed where practical or half-open for ventilation purposes would not pass the tests of enforceability and precision set out in paragraph 56 of the Framework and in the Planning Practice Guidance (PPG)². Numerous instances can be conceived of where there might be practical reasons for leaving the doors open or partly open, including to provide ventilation. Therefore, in practice it would be more or less impossible to detect a contravention or remedy any breach of such a condition. During my visit, vehicles were being worked on in the bays with both workshop doors half-open even though the outside temperature was low, whilst the main workshop door was fully open with work to vehicles ongoing inside. This reinforces my misgivings regarding the enforceability of any condition drafted along the above lines. Imposing a condition restricting the playing of a radio would be unenforceable for similar reasons. Requiring the doors to be kept closed at all times when the workshop is in use would be unduly onerous, failing the test of reasonableness in the Framework and the PPG given that the doors would have to be opened at times, including to provide access and ventilation.
13. A condition requiring the site entrance gates to be kept closed whilst the workshop is in use would also fail the test of reasonableness, given that the parts of the site not occupied by built form provide off-street parking for the business and are therefore likely to be in more or less constant use. Similarly, a condition requiring the installation of taller entrance gates would be unreasonable and unenforceable, as achieving compliance would involve undertaking works for which approval may not be forthcoming. As conditions which meet the relevant policy tests cannot be imposed to secure most of the recommended mitigation measures, the objections to the workshop use on grounds of the adverse effects of noise and disturbance on adjoining residential occupiers cannot be satisfactorily overcome. Whilst the use of the extensions could be restricted to storage by condition, that would not overcome the objections on visual grounds set out above.
14. In reaching the above findings, I acknowledge that the appellant's nearby workshop premises have operated for many years in proximity to residential property, with no obvious issues regarding noise and disturbance being drawn to my attention. Even so, that is not a reliable indication of what might happen in future. For example, the proprietors of the business could change and/or it could operate in a different or more intensive manner, with less regard for neighbouring residential occupiers. The Council accepted that following

² Paragraph: 003 Reference ID: 21a-003-20190723.

compliance with the notice the building would benefit from a deemed planning permission for storage purposes, this being the effect of s173(11) of the Act. Therefore, the building would not have to remain vacant in the event that the ground (a) appeal is dismissed and the notice complied with.

15. The unacceptable erosion in the living conditions of occupiers of adjoining residential property arising from the workshop use does not accord with LP Policy PSP8. Furthermore, the workshop use does not accord with LP Policy PSP21, as it is not sited and designed to prevent unacceptable risks and avoid unacceptable levels of pollution adversely impacting on the amenity of users of the surrounding area by way of noise and an appropriate standard of mitigation has not been provided. Additionally, not providing a high standard of amenity for existing and future users is inconsistent with the Framework.

Highway safety

16. As noted above, parts of the site provide off-street vehicle parking associated with the appellant's business. The increase in built footprint over the 2018 permission has had no significant adverse effect on the availability of parking within the site. According to the appellant, the purpose of the workshop is to improve access to vehicle ramps/lifts, as a result of increased demand for the use of ramps/lifts at their nearby workshop premises which had led to delays in completing work; the scale of the business has not increased and the number of employees remains similar.
17. Be that as it may, as well as an increased efficiency in terms of throughput the provision of two extra vehicle bays provides ample scope for a significant uplift in the scale of vehicle maintenance and repair activity undertaken by the appellant's business. Increases in the scale of activity, for example in response to increased market demand, are highly likely to attract greater numbers of vehicles to the site, with a corresponding increase in demand for vehicle parking. It is not unreasonable to anticipate that the business will operate at or near capacity at times, for example due to high demand and to maximise financial returns. Parking spaces freed up whilst vehicles are in the workshop are unlikely to be sufficient to accommodate more than a modest portion of the additional vehicles visiting the site for the purposes of maintenance or repair.
18. As a result, without further on-site provision there is likely to have been a considerable increase in vehicle parking on this and in nearby streets due to the workshop use. My views in this respect are reinforced by observations during my visit when, with both of the appellant's workshops in use, there were quite high numbers of vehicles parked along The Causeway and in Lower Stone Close. A good number of these vehicles appeared to be associated with the business. The carriageway width is restricted on The Causeway in the vicinity of the site whilst nearby, the carriageway along Lower Stone Close curves appreciably in places. The amount of on-street vehicle parking has restricted the levels of visibility available to oncoming vehicles and has also significantly reduced the free flow of vehicular traffic. That interested local residents made representations in response to the appeal regarding problems arising from on-street parking associated with the business lends further support for my findings on this matter.
19. The condition on the 2018 permission did not restrict the use of the building on highway safety grounds. Even so, there was no firm evidence to show that the workshop use has not increased the demand for parking. Recent provision of

yellow lines on the approaches around the junction of The Causeway and Lower Stone Close does not overcome the objections identified above, as it is still possible to park along significant portions of these streets. Whilst vehicles can park on the streets legally, that is not necessarily a good indicator of whether there is harm to highway safety. Although the appellant might have arranged for additional off-street parking to be made available locally, that can only be afforded limited weight as the continuation of those arrangements cannot reasonably be assured.

20. Therefore, on the basis of the evidence before me the workshop use has resulted in a significant increase in on street vehicle parking in the locality, having an unacceptable adverse effect on highway safety. This fails to accord with criterion in CS Policy CS8 and criterion in LP Policy PSP11. Whilst the residual cumulative impacts on the road network are not severe, the unacceptable impact on highway safety is inconsistent with the Framework.

Other matters

21. The workshop use provides for the expansion of an established business located in a large rural settlement and supports local employment. These economic benefits weigh to some degree towards granting permission, also having regard to the broad policy support provided by the Framework and CS Policies CS13 and CS34. Even so, such benefits are relatively modest in scale and do not outweigh the adverse impacts identified above.

Ground (a) appeal-conclusion

22. The use as a workshop and the extensions to the building fail to accord with the Development Plan, when taken as a whole, and are inconsistent with the Framework. Therefore, the ground (a) appeal does not succeed.

Ground (f) appeal

23. The ground of appeal is that the notice requirements are excessive.
24. An enforcement notice can have the purpose of remedying the breach, including by discontinuing any use of the land or by restoring the land to its condition before the breach took place as provided by s173(4)(a) of the Act, or it can remedy any injury to amenity which has been caused by the breach as provided by s173(4)(b).
25. The notice states that its purpose is to remedy the breach. Discontinuing the workshop use and removing plant and machinery integral to and facilitating that use would only partly achieve this aim. Removing the extensions would not wholly restore the site to its condition before the breach took place, as the building would remain in situ. The building would not comply with the terms of any planning permission granted in respect of the site. As noted above, the building would however benefit from a deemed planning permission following compliance with the notice. Therefore, the purpose of the notice must be to remedy the breach in respect of the workshop use and to remedy the injury to amenity in respect of the extensions.
26. Whether the planning objections could be overcome by attaching conditions was considered as part of the ground (a) appeal. In the context of ground (f), steps which stopped short of requiring the workshop use to cease together with the removal of plant and machinery integral to and facilitating that use would

not remedy the breach, as the use would be sustained. Since any fixed plant and machinery used in association with the workshop is largely self-evident, for example operational ramps/lifts, there is no uncertainty in requiring the removal of such items. Furthermore, retaining the extensions in the current colour applied to the walls or with an alternative colour finish would not remedy the injury to amenity.

27. Therefore, the alternative steps suggested would not achieve the purpose of the notice. There are no other alternatives that would stop short of the requirements whilst also achieving the purpose of the notice. As the notice requirements are not excessive, the ground (f) appeal fails.

Ground (g) appeal

28. The ground of appeal is that the time specified for complying with the notice requirements falls short of what should reasonably be allowed.
29. The appellant considered that the compliance period should be extended by five months, to provide for the determination by the Council of a revised planning application and to mitigate the effects on the business, which would need to try and secure alternative premises.
30. The planning application referred to was refused in July 2022³. A Breach of Condition Notice (BCN) issued on 28 June 2022 required that within 28 days of that date the site should be used for car parking and as an ancillary office only and for no other purpose, including vehicle repairs, to comply with condition 1 attached to planning permission reference PT16/1604/F. The building is clearly on part of the land to which the BCN relates. As far as I was made aware, the validity of the BCN was undisputed and it remains in force. Use of the site for vehicle repairs following the expiry of the 28-day period would be in contravention of the BCN and accordingly, a criminal offence. In any event, ceasing of the workshop use does not prevent similar activity continuing at the appellant's nearby workshop premises whilst a search for an alternative site is undertaken, thereby ensuring business continuity.
31. Therefore, it would not be appropriate to extend the period for compliance beyond that specified. The ground (g) appeal also fails.

Conclusion

32. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR

³ Council Ref: P20/15092/F.