



Appeal Decision

Site visit made on 18 April 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 5 June 2023

Appeal Ref: APP/E9505/W/22/3295628

Norfolk Garden Supplies, 54B Yarmouth Road, Thorpe St Andrew, Norwich NR7 0HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Matthew Hales of Clean and Coat Ltd against the decision of the Council of the Broads Authority.
 - The application Ref BA/2022/0022/FUL, dated 15 December 2021, was approved on 25 March 2022 and planning permission was granted subject to conditions.
 - The development permitted is retention of buildings, canopy and hardstanding for use in association with car wash and conservatory sales and use of buildings for offices available to rent (10 desks).
 - The condition in dispute is No 4 which states that: Buildings 4, 5 & 6 as shown on Site Plan (Drawing No. 21/273/02 Rev. C) received by the Local Planning Authority on 15 February 2022 shall be used as offices in association with the car wash facility and Clean & Coat Trade Depot Ltd, with a maximum of ten desks being used for third party rental purposes. Written records shall be kept of the third party use and these shall be made available to the Local Planning Authority on request.
 - The reason given for the condition is: To ensure satisfactory development of the site, in accordance with Policy DM25 of the Local Plan for the Broads 2019.
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Decision

1. The appeal is allowed and the planning permission Ref BA/2022/0022/FUL for retention of buildings, canopy and hardstanding for use in association with car wash and conservatory sales and use of buildings for offices available to rent at Norfolk Garden Supplies, 54B Yarmouth Road, Thorpe St Andrew, Norwich NR7 0HE granted on 25 March 2022 by the Broads Authority, is varied by deleting condition 4 and substituting it for the following condition:
 - 1) Buildings 4, 5 & 6 as shown on the Site Plan (Drawing No. 21/273/02 Rev. C) received by the Local Planning Authority on 15 February 2022 shall be used as offices and for no other purpose in Class E of the Schedule to 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).

Applications for costs

2. An application for costs was made by Mr Matthew Hales of Clean and Coat Ltd against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Evidence has been provided to confirm that there was agreement between the main parties on the 27 January 2022 that the description of development should be amended to state 'retention of buildings, canopy and hardstanding for use in association with car wash and conservatory sales and use of buildings for offices available to rent'.
4. Before granting planning permission for the proposal on the 25 March 2022, the Council amended the description of development to state 'retention of buildings, canopy and hardstanding for use in association with car wash and conservatory sales and use of buildings for offices available to rent (10 desks)'. No evidence has been provided to suggest that the appellant agreed to this amendment to the description of development.
5. Given the type of appeal I am able to consider the matter afresh and have therefore amended the description of development in my decision above to reflect the description of development agreed by the appellant.

Background and Main Issue

6. The appeal site comprises a range of buildings in commercial use and a car wash facility. The subject of this appeal are buildings 4, 5 and 6 which are fitted out for office use, although buildings 4 and 5 were vacant at the time of my site visit.
7. The appellant seeks to vary condition No 4 insofar as to remove the restriction on the number of desks that can be rented out to other users, unrelated to the business operations of the car wash facility and Clean & Coat Trade Depot Ltd.
8. The main issue is whether the disputed condition No 4 is reasonable and necessary in the interests of highway safety with particular reference to parking provision and the effect that the removal of that condition would have on the living conditions of the occupiers of the neighbouring dwelling with regard to noise and disturbance.

Reasons

9. Paragraph 56 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
10. Condition No 4 was attached to the planning permission which restricts the use of buildings 4, 5 and 6 to offices in association with the car wash facility and Clean & Coat Trade Depot Ltd with a maximum of 10 desks being used for third party rental purposes. The condition also requires that written records are kept of the third party use and that these shall be made available to the Local Planning Authority on request.
11. From reading the Council's decision notice, officer report and appeal statement, the reasons given by the Council for the part of the condition that limits the number of desks that can be rented out to 10 relates to the need to control the additional traffic that would access, egress and park at the site and to ensure that the occupiers of neighbouring dwellings are protected from additional noise and disturbance as a result of additional traffic movements.

12. The appeal site is accessed from Yarmouth Road along Girlings Lane. Opposite the entrance into the appeal site is the rear garden area of the neighbouring dwelling, 54 Yarmouth Road. Therefore, movements into and out of the appeal site do occur adjacent to the rear garden area of No 54. A wall and close boarded fencing provide a boundary between the rear garden of No 54 and Girlings Lane.
13. At my site visit I noted that the access onto Yarmouth Road from Girlings Lane had good visibility in both directions. Whilst I acknowledge it is only a snapshot in time, a number of vehicles accessed and egressed Girlings Lane during my time at the appeal site, all of which did so in a safe and effective manner.
14. The Council did not object to the amount of floorspace provided for the office use and the Highway Authority did not object to the parking layout or number of spaces provided based on the amount of floorspace. The officer report acknowledges that the proposal to rent out office space could result in additional movements to the site, but also states that this would not necessarily be via car as the site is easily accessible by public transport and bike. It is further noted in the report that access is likely to be twice per day by any one person and that this is not considered to be detrimental to neighbour amenity.
15. It is noted that these statements by the Council are based on the amended description limiting the number of desks available to rent to 10. However, it is not clear from the evidence what the additional traffic to the site would be caused by, given that the area of office floorspace would not change.
16. Whether the office space is used in association with the two businesses identified under the disputed condition or by separate individuals or businesses, it would result in the same number of people accessing and using the site for the office use, because the desk rental activity would be contained within the existing floorspace identified. It would not increase the capacity of the buildings but would make use of the existing office space.
17. As a result of there being no increase in the capacity of the office space, the effect of the development on the living conditions of the occupiers of the neighbouring dwelling would not be significantly different without the restriction on the number of desks that could be rented out to other users.
18. I note that there are other uses contained within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) that could potentially increase the number of users accessing the appeal site and therefore I do consider it necessary to restrict the use of buildings 4, 5 and 6 to an office use, in order that any potential future changes to the use could be appropriately assessed.
19. For the above reasons, it has not been shown that there is clear justification for the restriction of the number of desks that can be rented out. I therefore conclude that condition 4 is not reasonable or necessary in the interests of highway safety with particular regard to parking provision or with regard to the protection of the living conditions of the occupiers of the neighbouring dwelling with regard to noise and disturbance. As such, the varying of this condition would comply with the aims of policy DM25 of the Local Plan for the Broads - Plan period: 2015 to 2036 Adopted 17 May 2019 (LP), which seeks, amongst other things, to ensure new employment development is capable of being

satisfactorily accommodated within the highway network and that it does not affect amenity.

20. As identified above, it is necessary to replace condition 4 with a condition that restricts the use of buildings 4, 5 and 6 to office use, in order to limit the effects of any potential future changes to the use on highway safety, parking provision and the living conditions of the occupiers of the neighbouring dwelling.

Other Matters

21. The appeal site is located within Thorpe St Andrew conservation area (CA). The significance of the CA lies in the linear form of development, the riverside setting, the built boundary treatments and buildings located along the road frontages and the verdant character. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a requirement that special attention should be paid to the desirability that the character or appearance of the conservation area should be preserved or enhanced.
22. The buildings on the appeal site are clad in a brown timber-look uPVC material. Whilst the type of cladding used is not reflective of traditional materials, I agree with the Council that the lack of visibility of the buildings from public vantage points, along with the scale of the buildings and the context of the wider use of the appeal site means that the office buildings are not harmful to the significance of the CA.
23. I conclude that the development is consistent with the preservation of the character and appearance of the CA. It complies with policy DM11 of the LP which seeks to preserve or enhance the character or appearance of the historic environment.

Conclusion

24. In light of the above, I conclude that the appeal should be allowed, and planning permission Ref BA/2022/0022/FUL varied by the deletion of condition 4 and the substitution with a new condition restricting the use of buildings 4, 5 and 6 to office use.

G Dring

INSPECTOR