



Appeal Decision

Site visit made on 23 May 2023

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Appeal Ref: APP/P4415/W/22/3313009

Land at Brook Hill, Thorpe Hesley, Rotherham

- 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 Northgate Assets c/o Edgeplan Ltd against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2002/1324, dated 17 August 2022, was refused by notice dated 3 October 2022.
 - The development proposed is erection of a convenience store (class E) with associated access, parking and storage areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is an appropriate location for development.
 - The effect on the character and appearance of the area, including the setting of Thorpe Hesley Conservation Area.
 - The effect on the living conditions of neighbouring occupiers with regards noise and disturbance.
 - The effect on highway safety.

Reasons

Location of Development

3. The appeal site is located in a residential area of Thorpe Hesley. Policy CS12 of the Rotherham Local Plan (Local Plan) supports local shops and services in areas of housing growth. Whilst there has been some housing development in Thorpe Hesley it is not designated as an area of growth in Policy CS1 of the Local Plan.
4. Where development such as that proposed is to be located outside of identified centres, Policy CS12 of the Local Plan requires a sequential approach to demonstrate that there are no more appropriately located sites available, suitable or viable for the proposed development. This has not been undertaken and therefore it has not been demonstrated that the scheme is an appropriate

use in the location proposed and would conflict with Policy CS12 of the Local Plan.

5. Even if a sequential test is not necessary, as proffered by the appellant, there is a need to demonstrate that all of the requirements of Policy SP11 are met. Whilst there is little before me to indicate that there is disagreement between the parties on criteria a, b and d of the policy, there is disagreement with regards criterion c in terms of the impact on residential amenity. I consider this further in more detail below.

Character and Appearance

6. The appeal site is an equestrian manege located adjacent to Brook Hill. Surrounding uses include a public house with beer garden and parking but the area is primarily characterised as residential. The site sits on the boundary of Thorpe Hesley Conservation Area, the significance of which for the purposes of this case is the semi-rural residential character with stone buildings.
7. The proposed development would be recognisable as being in commercial use and have a poor relationship to neighbouring dwellings in terms of design, form, appearance and materials. The development would be single storey in height but nevertheless imposing due to the hillside location. The development would be prominent and visible in views into and out of the Conservation Area.
8. Whilst there would be some design similarities to the pub opposite, the development would be at odds with the predominant residential character. The design, scale and massing of the scheme would create an incongruous addition.
9. The development would harm the character and appearance of the area and the setting of the Conservation Area. As the harm to the Conservation Area would be localised, the proposal would (using the terminology contained in the National Planning Policy Framework (NPPF)) cause less than substantial harm to the significance of the Conservation Area as a designated heritage asset. Nevertheless, this harm is of considerable importance and weight.
10. The harm is such that it would fail to comply with Local Plan Policy CS23 of the Local Plan insofar as it seeks to protect the heritage significance and setting of locally identified heritage assets and Policy SP41 of the Local Plan which requires new development to ensure the preservation or enhancement of the special character or appearance of conservation areas and their settings.
11. The development would also conflict with the parts of Policies CS21, CS28 and SP55 of the Local Plan which require new development to be responsive to its context, be of high quality and positively contribute to the local character and distinctiveness of an area.
12. It is necessary, given the harm identified amounts to less than substantial harm, that it should be weighed against the benefits of the proposal. I return to this matter below.

Living Conditions

13. Given the current use of the site, the proposed development would lead to an increase in the number of movements to and from the site with a greater number of people coming and going on foot and in vehicles. Consequently, there is likely to be a steady stream of customer and delivery vehicles and

noise throughout the day and into the evening. The noise associated with this, including vehicle engine noise, vehicle doors slamming and talking would be noticeable in a largely residential area, even acknowledging the presence of the pub. Residents closest to the site would be particularly affected.

14. The appellant says that store opening times would be 07:00-23:00 and is willing to condition delivery times to limited periods. Nevertheless, there would still be noise early in the morning and late into the evening when nearby residents would reasonably expect there to be a level of peace and quiet. I acknowledge the presence of the pub and its opening hours. However, the development would introduce a further premises opening late into the evening which would inevitably increase noise and disturbance above the existing situation. Whilst the appellant has submitted a noise delivery management plan it relates only to deliveries and does not deal with noise generated by customers which is beyond the appellant's control.
15. The development would generate an unacceptable level of harm to the living conditions of the occupiers of nearby residential properties. It would not therefore comply with Policy SP11 of the Local Plan which amongst other things only permits non-residential uses where it would not have an unacceptable impact on the residential amenity of the area or the part of Policy SP52 that does not support development where pollution is not adequately mitigated to protect amenity. It would also fail to comply with the NPPF in terms of achieving a high standard of amenity for existing and future users.

Highways

16. The Council has raised concern regarding conflict between vehicles exiting and entering the carpark. However, swept path analysis has demonstrated that cars can undertake this manoeuvre without conflict.
17. The proposed car park would have capacity for 11 spaces. To facilitate the delivery of goods to the store it would be necessary to cone off 4 parking spaces. A delivery management plan may enable morning deliveries and allow parking spaces to be coned off from shop opening to reduce potential conflict with other users. However, whilst this would reduce the risk of traffic queuing to access the site the proposed arrangement would still have a detrimental impact on disabled visitors as a consequence of the disabled spaces being unavailable.
18. The width of the proposed pavement may comply with inclusive mobility guidance. However, pavement provision on Brook Hill is disjointed and pedestrians accessing the proposal from certain locations would need to cross the road multiple times to remain on the pavement. The appellant argues that this is established practice in the village due to the location of facilities. However, this does not make it acceptable, even if as suggested that it is not known historically to cause an issue. The proposal would necessitate an additional reason to cross the road perpetuating an unsatisfactory situation at a risk to pedestrian safety. This is irrespective of whether pedestrians choose to cross the road at a diagonal angle. Overall, the proposed crossing point would be insufficient to mitigate the harm identified.
19. The development would pose a risk to highway safety and therefore conflict with the NPPF in that it requires new development to provide safe and suitable

access for all users and address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

Planning Balance

20. The NPPF requires that less than substantial harm is weighed against the public benefits of the proposal. There would be economic and social benefits generated by the development which I attribute moderate weight. Against this I have found significant harm to the character and appearance of the area, the living conditions of neighbouring occupiers and to highway safety. The less than substantial harm to heritage assets should be afforded great weight. I do not find that the benefits of the proposal amount to public benefits that outweigh the harm that would be caused to the significance of the conservation area.

Conclusion

21. The development would conflict with the development plan taken as a whole. There are no other material considerations of sufficient weight to indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

K Ford

INSPECTOR