



Appeal Decision

Site visit made on 16 May 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Appeal Ref: APP/G4620/W/23/3315160

Lock up garages to rear of 128 Dog Kennel Lane, Oldbury, Sandwell B68 9NA

- 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 Amir Aslam against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref: DC/22/67022, dated 8 May 2022, was refused by notice dated 8 August 2022.
 - The development proposed is the change of use for storage of vehicle stock and raising of roof height and alterations to existing lock up garages.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use for storage of vehicle stock and raising of roof height and alterations to existing lock up garages at Lock up garages to rear of 128 Dog Kennel Lane, Oldbury, Sandwell B68 9NA in accordance with the terms of the application, Ref DC/22/67022, dated 8 May 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development was amended during consideration of the application subject of this appeal to include reference to the change of use to storage of vehicle stock. The appellant however raises concerns on the inclusion of the reference to 'associated with car sales'. I have utilised part of the description of development from the decision notice which includes reference to the change of use but have removed that part referencing car sales as the description without this adequately describes the appeal proposal before me.
3. At the time of my site visit, it was clear that a number of lock up garages had been combined and vehicles were being stored within them. Although I was able to see a number of roller shutters, the development otherwise reflected the drawings before me. For clarity, I have dealt with the appeal based on the submitted plans.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of surrounding residential occupiers with regard to noise and disturbance, and

- highway safety.

Reasons

Character and Appearance

5. The appeal site comprises of a group of lock-up garages, situated to the rear of buildings on Dog Kennel Lane and Warley Road. Although the properties situated on these two roads are predominantly residential, there is a Petrol Filling Station and a wide range of commercial uses nearby on Londonderry Road. This gives the area a mixed character, where in addition to the variation in the uses, there is variety in the style and design of buildings.
6. The Council has not raised concerns on the proposed physical alterations to provide 5 garages, including the increase in height. Given their single storey form and the presence of other garages and outbuildings in nearby garden areas, I consider that the appeal development assimilates with the surrounding built form.
7. The appeal site previously served as domestic residential parking and is surrounded on three sides by residential gardens. However, given the close proximity of the Petrol Filling Station, which the appeal site also shares an access point with, and the mixed character of the area, the proposed storage use, would not be harmful to the character and appearance of the area.
8. I therefore conclude that the appeal development does not have a detrimental impact on the character and appearance of the area. As such, it would not conflict with of Policy ENV3 of the Black Country Core Strategy (Core Strategy) or Policy SAD EOS 9 of The Site Allocations and Delivery Development Plan Document (SAD DPD), which seek, amongst other matters, high quality design. It is not contrary to the National Planning Policy Framework (Framework) which seeks development that is sympathetic to local character.

Living Conditions

9. The commercial storage use subject of this appeal would differ from the use of the site as lock up garages. Although the 10 lockup garages would likely have been used as domestic residential parking, the Council has not disputed their unrestricted nature, in terms of the timing of operations, or what could be stored within them.
10. Nevertheless, the proposal comprises of five modestly sized garages and a storage unit on the footprint of the previous lock-up garages. The Council has raised concerns on lack of supporting information on the scale of the operation, but given the size and number of garages, I do not consider that the effects of noise, including from comings and goings are unduly harmful, particularly given the presence of the adjacent Petrol Filling Station which generates regular vehicle movements. This would be subject to controlling the hours of operation and is a matter which can be addressed by condition.
11. I therefore conclude that the appeal development does not harm the living conditions of surrounding residential occupiers, with regards to noise and disturbance. As such, there is no conflict with Policy ENV3 of the Core Strategy, Policy SAD EOS 9 of the SA DPD or Paragraph 130 of the Framework, which seek, amongst other matters, development that is of a high quality and a high standard of amenity for existing and future users.

Highway Safety

12. I note the disagreement between the main parties on the provision of information relating to vehicle movements. Having regard to the scale of the appeal proposal, which comprises of 5 garages, as well as the nature of the appeal use which seeks to provide storage, I consider that the number of vehicle movements to and from the site would be limited, particularly when considered in light of the 10 lock up garages that the proposal seeks to replace.
13. The proposal utilises an existing access from Dog Kennel Lane and the existing gates, which are not proposed to change, and are set well back from the highway. I do not therefore consider that vehicles would be required to queue or wait on the footway or carriageway.
14. On my site visit, I was able to see adequate space for cars to enter and turn within the appeal site. The appellant has set out that a flat bed or low loader are not used to take vehicles to or from the site. I have been provided with photographs by neighbouring residents which show a vehicle transporter. It is not clear where these photographs have been taken from or whether this vehicle transporter was delivering to or collecting vehicles from the appeal site. In the absence of conclusive evidence and based on the appellant's submissions, I consider the servicing arrangements would be adequate.
15. Whilst I note concerns that have been expressed in relation to pedestrian safety, given that vehicles are able to enter and leave in forward gear, and based on my site observations of visibility along the footway, I do not consider the use of the existing access by the appeal storage use is detrimental to pedestrian safety.
16. Given the above, I conclude that the appeal development does not have an unacceptable adverse impact on highway safety. It does not conflict with Policy SAD EOS 9 of the SA DPD or Paragraph 111 of the Framework, which set out, amongst other matters, that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

17. The Council has referenced planning permissions at the appeal site, but those permissions differed to the proposal before me in that they related to a change of use to provide parking in relation to a retail store on Londonderry Road. I have determined this appeal accordingly on its own merits.
18. Reference has been made to various private rights of way, but planning is concerned with land use in the public interest and these matters are outside the scope of this appeal as are those relating to the structural aspects of the development which are covered by other legislation. I have taken into account all other matters, including those relating to property values, the need for the proposal and the presence of other garages, but none of these matters would outweigh my conclusions on the main issues. Other concerns have been raised relating to car sales and repair, but this appeal proposal relates to the storage of vehicles and any departure would be a matter for the Council.

Conditions

19. I have considered the conditions suggested by the main parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of those suggested as appropriate.
20. A condition is necessary to ensure the development is carried out in accordance with the submitted details as is a condition to limit the hours of the use in the interests of surrounding residential occupiers living conditions. A management plan condition is necessary for the same reason and in the interests of highway safety. This would address a number of matters within the suggested conditions by the appellant.

Conclusion

21. The proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No: 001 (Existing Layouts), Drawing No: 002 (Proposed Layouts) and Drawing No: 003 (Proposed Site Location Plan / Block Plan).
- 2) The use hereby permitted, including deliveries to and from the site shall only take place between the following hours: 0800 and 1800 Monday-Saturday, and 0900 and 1300 on Sundays or Public Holidays.
- 3) Within 3 months of the date of this permission, a Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Management Plan shall provide details of the maximum vehicle movements associated with the site (am/pm) entering and exiting the site, the mode of delivery of vehicles to the site, security details and the maximum number of staff operating from the site along with allocated vehicle parking for staff within the site. The use shall thereafter proceed in full accordance with this approved Management Plan.

End of Conditions