



Appeal Decision

Site visit made on 17 July 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/W4223/W/22/3313476

West End House, West End Street, Oldham OL9 6DZ

- 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 Mrs Shelley Rahman against the decision of Oldham Metropolitan Borough Council.
 - The application Ref FUL/348539/22, dated 18 February 2022, was refused by notice dated 19 October 2022.
 - The development is the use of shipping containers for storage.
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Decision

1. This appeal is dismissed.

Procedural Matters

2. The shipping containers were already in-situ when I undertook my site visit. Therefore, I am considering this appeal retrospectively.
3. At the time of my site visit additional structures were located on top of the shipping containers. These do not form part of the appeal and therefore I have determined the appeal on this basis.

Main Issue

4. The main issues are the effect of the development on:
 - a) the character and appearance of the surrounding area; and
 - b) the living conditions of the occupiers of neighbouring properties, with particular reference to outlook, noise and disturbance.

Reasons

Character and Appearance

5. The appeal site contains a large detached, brick built building that is part single storey and part two-storeys in height and has a mix of flat and pitched roofs. It is set within a large plot on the corner of West End Street and Library Lane and contains a surface car park to the rear. The appeal site comprises the West End House Business Center and incorporates different commercial uses. The surrounding area is mixed, with dwellings on the opposite side of Library Lane and West End Street, sports pitches to the south of the appeal site, a commercial building that appears to be vacant but was previously occupied by a double glazing company on the corner of Library Lane and Kirkbank Street, and other small retail premises fronting onto Chadderton Way.

6. Along almost the full width of the appeal site's western boundary, 26 shipping containers have been sited with 13 larger containers stacked on top of 13 smaller containers. The appeal site slopes downwards from West End Street to Oldham Way (the A627). Consequently, the larger containers are accessed from the adjacent surface car park via the business centre's existing centrally positioned entrance off Library Lane, where-as the smaller containers are accessed via an existing entrance off the corner of Library Lane. The larger containers are yellow in colour and emblazoned with P&O Ferry logos, while the smaller containers are mixed in colour.
7. The group of containers occupy a large footprint and are of a significant scale and massing. The prominence of the containers within the surrounding area is further exacerbated by the yellow colour of the larger containers. Consequently, the containers are highly visible from both Library Lane and West End Street. Glimpses of the containers can also be seen through the vegetation and trees when travelling along Oldham Way and from a footbridge above the road and during the winter months, when the leaves have fallen from the trees, they are likely to be more conspicuous in these viewpoints. Furthermore, the material of the containers is incongruous within the surrounding area where the existing buildings are predominantly constructed of brick. While the overall height of the containers is reflective of the surrounding buildings, this does not overcome the other identified harm.
8. In the event the appeal is allowed, the Council has suggested a condition for a colour scheme to be agreed and the appellant is agreeable to this. Painting the containers a dark/recessive colour may lessen their visibility however, it would not reduce the overall footprint, bulk and massing of the containers or resolve the incompatible materials.
9. The appellant considers the development has improved the appearance of the site, has prevented fly-tipping, and has directed me to photographs of the site's past appearance. However, I have found that the development harms the character and appearance of the surrounding area, and I am not persuaded that the development was the only way of tidying up the site or preventing fly-tipping. The appellant has also directed me to the presence of shipping containers within the appeal site prior to the development. However, the number of containers was not comparable to the existing development. Furthermore, it would appear that planning permission had not been obtained for their siting.
10. In reference to the first main issue, the development significantly adversely affects the character and appearance of the surrounding area. It conflicts with Policy 9 of the Oldham Local Development Framework¹, adopted 2011 ('the LDF') which, amongst other things, seeks to protect and improve local environmental quality by ensuring development does not have a significant, adverse impact on the visual amenity of the surrounding area, including local landscape and townscape.

Living Conditions of Occupiers of Neighbouring Properties

11. Dwellings are located to the north of the appeal site that front onto Kirkbank Street. The rear elevations and gardens of these dwellings adjoin Library Lane,

¹ Oldham Local Development Framework, Development Plan Document – Joint Core Strategy and Development Management Policies, adopted 9 November 2011

which forms the northern boundary to the appeal site. Consequently, those accessing the shipping containers, either by vehicle or on foot would likely pass in close proximity to the rear of these dwellings. The West End House Business Center consists of a mix of uses, including a café with an outside seating area, a takeaway within a cabin in the rear car park, and a textiles company. The wider area includes other businesses and outdoor sports pitches. Accordingly, the occupiers of the neighbouring dwellings are already likely to be subject to some noise and disturbance from these uses.

12. Should the appeal be allowed, the appellant has suggested a condition to limit the times when the storage containers could be accessed that would align with an existing planning condition that restricts the timings of another use on the wider appeal site. The Council has recommended a similar time restriction condition, but also includes forklift truck movements. The imposition of a condition to control the times when the containers could be used would ensure that any noise or disturbance associated with the use would not unduly affect the living conditions of the occupiers of neighbouring properties.
13. The shipping containers are sited along the western boundary of the appeal site. The nearest dwelling to the shipping containers is 19 Kirkbank Street whose rear windows face towards them. However, the ground floor windows are obscured by the dwelling's existing rear boundary treatment and the first floor windows do not directly face the containers, instead they have an oblique view. Furthermore, the change in ground levels ensures the shipping containers appear single storey in height when viewed from No 19 and they are sited a substantial distance from the dwelling so as not to appear overbearing.
14. In respect of the second main issue, the development does not adversely affect the living conditions of the occupiers of neighbouring properties, with particular reference to outlook, noise and disturbance. The development complies with Policy 9 of the LDF which, amongst other things, seeks to protect and improve amenity by ensuring development does not cause significant harm to the amenity of existing and future neighbouring occupants or users through impacts on noise, the visual appearance of the area or other nuisances.

Conclusion

15. For the reasons set out above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR