



Appeal Decision

Site visit made on 9 January 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/P4415/W/23/3323602

Land adjacent to Bradgate working mens club, Bradgate Lane, Rotherham S61 1QH

- 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 Paul Woodger against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2023/0276, dated 22 February 2023, was refused by notice dated 15 May 2023.
 - The development proposed is use of land for storage of containers.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site would be a suitable location for the development having regard to the development strategy for the area, including the effect on the living conditions of nearby residents and the character and appearance of the area.

Reasons

3. The appeal site comprises an area of land within a mainly residential area. It sits across Bradgate Lane from several two storey dwellings that front directly onto the pavement along the road, a number of which have direct views of the site.
4. Although both the appellant and Council state that development has commenced, at the time of my site visit there were no storage containers on the site. The site did contain several piles of material such as wood blocks, rubble and what appeared to be parts of upvc doors and strip lights.
5. The site forms part of a housing allocation under Policy SP1 of the 2018 adopted Rotherham Local Plan Sites and Policies (the SP). The supporting text to the policy explains that the allocations focus on those available sites of a sufficient size and with reasonable prospects for delivery to make a significant contribution to the objectives of the Core Strategy.
6. The appellant contends that it is extremely unlikely that the land will ever be used for housing due to the variation of levels across the allocated site and the watercourse that surfaces behind the site and regularly floods the area. However, the evidence before me is not sufficient to demonstrate that these factors would be insurmountable obstacles to developing the site for housing.

7. There is no clear evidence before me to suggest that the housing allocation is no longer deliverable. One could describe the storage containers as non-permanent structures as they would not be fixed to the ground and would be moveable. However, the development that permission is being sought for would be a permanent use of the land. Overall, and based on the evidence before me, I cannot be satisfied that the housing allocation would not be prejudiced by the development.
8. The appeal site is within a residential area as defined in Policy SP11 of the SP. This policy seeks to retain such areas primarily for residential uses. Non-residential uses will normally only be permitted where they are ancillary and complementary to the residential nature and function of the area; are no larger than is required to meet the needs of local residents; will not have an unacceptable impact on the residential amenity of the area; and demonstrate how they will be of benefit to the health and well-being of the local population.
9. The Council's appeal statement sets out that the appellant has explained that the site is in use by his business. However, there is very little information before me on the nature of the use that the storage containers would be put to.
10. The containers would sit to the rear of the site, which would be the furthest point from the nearby dwellings on Bradgate Lane. Nevertheless, the vehicle movements, comings and goings, loading and unloading and noise associated with the use of the site for storage of containers in connection with a business would be conspicuous in the vicinity given its predominantly residential character. It would be possible to restrict the hours of operation by a condition had I been minded to allow the appeal. However, it would be difficult to control any future intensification of the site. Consequently, I cannot be certain that a further intensification of the site would not give rise to significantly harmful effects on the living conditions of nearby residents.
11. Given their industrial appearance, the shipping containers would appear unusual in this predominantly residential setting. The development would introduce a commercial/industrial character to the site which would stand out as an incongruous feature in relation to the surrounding residential environment.
12. There is some vegetation and palisade fencing around the boundary of the site. However, as I observed during my site visit, this does not provide effective screening of the site when the trees are not in leaf. Consequently, the site and the storage containers would be clearly visible in the street scene along Bradgate Lane and from nearby dwellings here for a large part of the year, notwithstanding their location to the rear of the site. Views across the site, including the area to the rear, are possible from vantage points along Wortley Road, which sits at a higher level. Such views would be filtered by the nearby vegetation during summer months when the trees are in leaf, but the development would be more prominent in views at other times of the year.
13. While additional planting could be undertaken, it would take a significant period to mature to the extent that it would provide adequate mitigation. Painting the storage containers may help to reduce their prominence, but it would not address the commercial/industrial character that would be introduced into a predominantly residential area, which Policy SP11 seeks to retain primarily for residential uses.

14. Consequently, I find that the development would significantly harm the character and appearance of the area.
15. The supporting text to Policy SP11 gives examples of non-residential uses that may be acceptable in the defined residential areas as being ancillary and complementary to the main residential use. This includes convenience shops serving the local area, social and community facilities, pubs, and open space. While this does not appear to be a closed list, it nevertheless provides an indication of the nature of ancillary and complementary uses. In my view, the development would not fall within the scope of what could reasonably be classed as ancillary and complementary to the residential nature and function of the area. This is because of its commercial/industrial character and my conclusions on its harmful effects on the living conditions of neighbouring residents and the character and appearance of the area. Furthermore, there is no explanation as to how the development would meet the needs of local residents, nor has it been demonstrated how it would be of benefit to the health and wellbeing of the local population.
16. Overall, therefore, the development has the potential to prejudice the overall development of the site for residential purposes, would harm the living conditions of nearby residents and the character and appearance of the area and would conflict with the aims of the development strategy relating to the protection of existing residential areas.
17. For these reasons, I conclude that the site would not be a suitable location for the development having regard to the development strategy for the area, including the effect on the living conditions of nearby residents and the character and appearance of the area. The development would therefore conflict with the requirements of Policies SP1 and SP11 of the SP, the main requirements of which are set out above. The development would also conflict with Policy CS28 of the 2014 Rotherham Local Plan Core Strategy 2013 – 2028, and Policy SP55 of the SP. Amongst other things, these policies require development proposals to be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping; and be of a high quality and positively contribute to the local character and distinctiveness of an area and the way it functions. There would also be conflict with the design objectives of the Framework and its amenity requirements.

Other Matters

18. The Council contend that any commercial use at the site was abandoned around 50 years ago. No lawful development certificate to establish the lawful use of the site is before me. Based on the submitted evidence, and on the balance of probability, it has not been sufficiently proven that the site has been used for storage continuously for 10 years. The appellant has not therefore reasonably made the case that the site has a lawful storage use.
19. From the evidence before me, it does not appear that the examples given by the appellant of other sites with containers near to residential properties are directly analogous to the appeal scheme, which I have in any event considered on its own planning merits. There is no clear evidence that highway safety or anti-social behaviour are significant issues at the site or in the vicinity.
20. None of the other matters raised alter or outweigh my conclusions on the harm that would be caused by the development.

Conclusion

21. The development would conflict with the development plan taken as a whole, and there are no material considerations that would indicate a decision other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

F Wilkinson

INSPECTOR