



Appeal Decision

Site visit made on 25 March 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/P4605/W/23/3330563

Westley Garage, Unit 1, Rear of 32 Station Road, Acocks Green, Birmingham B27 6DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Stuart Hatton of Umberslade Securities Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/08829/PA was approved on 14 June 2023 and planning permission was granted subject to conditions.
 - The development permitted is the change of use to provide self-storage facility (Use Class B8), installation of storage containers and associated external alterations to include installation of roller shutters, fencing/gates and landscaping.
 - The condition in dispute is No 3 which states that: This permission shall be for a limited period expiring on 20.08.25. whereupon the B8 use shall cease and the self-storage containers and associated lighting and CCTV removed and the land restored to its former condition.
 - The reason given for the condition is: The continuation of the use and the permanent retention of the building on a permanent basis would be inappropriate as B8 and self-storage in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
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Decision

1. The appeal is allowed and the planning permission Ref 2022/08829/PA for the change of use to provide self-storage facility (Use Class B8), installation of storage containers and associated external alterations to include installation of roller shutters, fencing/gates and landscaping at Westley Garage, Unit 1, Rear of 32 Station Road, Birmingham B27 6DN granted on 14 June 2023 by Birmingham City Council, is varied by deleting condition 3 and substituting for it the following condition:
 - The development hereby permitted shall begin not later than 3 years from the date of this decision.

Background and Main Issue

2. Planning permission has been granted for the change of use to provide self-storage facility on a temporary basis. The permission extends an existing facility and includes for an additional nine storage containers alongside associated works. The appeal seeks to carry out development without complying with condition 3 which requires the storage containers to be removed and B8 use discontinued after a fixed period of time, with the land returned to its former condition.
3. Consequently, the main issue is whether it is necessary and reasonable to require the cessation of the B8 use after a fixed period of time and whether the disputed condition is precise.

Reasons

4. The appeal site is in a backland position and comprises a large utilitarian building in mixed use, including general industrial and storage uses as well as a gym. There are also a number of repurposed shipping containers, which have been operating as a self-storage facility following a previous appeal¹. The surrounding area is mixed with a variety of building types and uses, including industrial, commercial, retail, and residential, which is primarily located to the north and east.
5. Although the Council amended the description of development and the appellant did not dispute this, it is clear based on the application form and the submitted drawings, that alongside the physical extension of the business, they sought to retain the B8 use and storage containers permanently. I note that the previous appeal limited the B8 use and installation of the storage containers to a period of 5 years. Whilst condition 3 would be consistent with the time limitation imposed at the previous appeal, the site has now been operating for approximately 3 years and I have not been provided with any substantive evidence to suggest that the use has caused any issues within the area during this time.
6. The Council asserts that an additional 'trial period' would be required due to the increased number of storage containers. However, I am satisfied that the increase would be proportional to the size of the appeal site and existing business and that it would have a negligible effect on the management of the site and the wider area. Further, condition 3 requires the land to be restored to its former condition. Whilst each case should be judged on its own merits, this goes beyond the condition imposed at the previous appeal which simply required the shipping containers and associated lighting and CCTV to be removed from the site. The planning history of the site is extensive, and I am unable to determine which former condition is referred to.
7. Therefore, I conclude that it is not necessary or reasonable to require the cessation of the B8 use after a fixed period of time nor is the disputed condition precise.

Conditions

8. As I have concluded that the development can be permanent, I have substituted the disputed condition for the standard time limit condition.

Conclusion

9. For the reasons given above, I conclude that the appeal is allowed, and I vary the planning permission by deleting condition 3 and substituting for it the condition as given above in the formal decision.

K Allen

INSPECTOR

¹ Appeal Reference: APP/P4605/W/20/3252639