



Appeal Decision

Site visit made on 19 June 2024 by Darren Ellis MPlan MRTPI

Decision by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2024

Appeal Ref: APP/Y2003/W/23/3335074

**312 Messingham Road, Bottesford, Scunthorpe, North Lincolnshire
DN17 2QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gurmeet Singh Athwal against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/311.
 - The development proposed is described on the application form as the "change of use from a store room to a car garage to carry out repairs/tyre replacements etc".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a store room to a car garage to carry out repairs/tyre replacements etc at 312 Messingham Road, Bottesford, Scunthorpe, North Lincolnshire DN17 2QY in accordance with the terms of the application, Ref PA/2023/311 subject to the following conditions:
 - 1) The use hereby permitted shall only take place between the following times: 0900-1700 Mondays to Fridays; 0900-1500 Saturdays; and at no time on Sundays and on Bank or Public holidays.
 - 2) The roller shutter doors shall be kept closed at all times except for the access and egress of vehicles to and from the garage.
 - 3) There shall be no vehicle repairs or operating of plant or machinery externally on the site.
 - 4) The vehicle parking spaces and turning area shown on drawing no 1744.01 rev A shall be retained in perpetuity for the parking and turning of vehicles only.
 - 5) The premises shall be used for commercial car repairs and tyre replacements and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)).

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for costs

3. An application for costs was made by Mr Gurmeet Singh Athwal against North Lincolnshire Council. This application is the subject of a separate decision.

Procedural Matters

4. The application form states that the proposed change of use has already been implemented. I have therefore proceeded on that basis.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has referred to the emerging North Lincolnshire Local Plan Submission (2022) which has been submitted for public examination. However, it has not yet been adopted and as such it does not form part of the development framework. Furthermore, the reason for refusal does not cite a conflict with any policy of the emerging plan. I shall therefore assess this appeal in accordance with the development framework.

Main Issue

6. The main issue is the effect of the development on the living conditions of surrounding residents, with particular regard to noise and pollution.

Reasons for the Recommendation

7. The appeal site is situated to the rear of a convenience store, which is part of small parade of shops and commercial units in a residential area. The building was formerly used as storage for the convenience store, and is adjacent to residential properties in Wayside Close. Access to the site is from Messingham Road and goes between the convenience store and a nursery.
8. The appellant has submitted a Noise Impact Assessment (NIA). The NIA states that the use as a car garage would have a low impact with regards to noise when compared to the existing background noise level, including from traffic on Messingham Road. The Council's Environmental Protection (EP) department has reviewed the content of the NIA and has no objection to the proposal on the grounds of noise or pollution, subject to conditions. I have no substantive evidence before me to disagree with those findings.
9. It is acknowledged that vehicle movements to and from the car garage may, at certain times, be more frequent than for the previous use. However, the typical noise and fume levels associated with the garage would likely be similar when taking account of the former use of the site for storage by the convenience store, including for deliveries, servicing and the use of the outdoor area for parking. Moreover, conditions have been suggested by EP officers to ensure that the roller doors remain closed at all times, except for access and egress, and to ensure all vehicle repairs and use of machinery happens inside the building.
10. For the reasons given above, the development does not unacceptably harm the living conditions of surrounding residents or users of the nursery, with particular regards to noise and pollution. The proposal therefore accords with Policies DS1 and DS4 of the North Lincolnshire Local Plan (2003), insofar as they require development, including changes of use, to not cause unacceptable harm to residential amenity, including with regards to noise and fumes. The

proposal also complies with paragraphs 180 and 191 of the National Planning Policy Framework, which requires development to not contribute to unacceptable air and noise pollution.

Other Matters

11. Representations have also been received with regards to highway safety, flammable materials, precedent, wildlife, damage to private property and property values.
12. The access to the appeal site and the entrance to the nursery are both next to the well-used car park for the small parade of shops. Given the relatively small scale of the garage, it is unlikely that vehicle movements would significantly increase given the existing levels of movements at the car park. Furthermore, I note that the Highway Authority has not raised any objections to the scheme. I have no reason to disagree with those findings. I am therefore satisfied that the garage does not, and would not, result in any unacceptable risk to highway safety. The storage of hazardous and flammable materials is covered by separate legislation and would be a matter for the Council in the first instance.
13. I have considered the arguments that any grant of planning permission would set a precedent for similar developments in the surrounding area. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature does not amount to a reason to withhold planning permission.
14. As mentioned earlier, the impact of the garage would be similar to the current commercial uses of the units and the previous use of the site as storage for the convenience shop. There is no evidence before me which leads me to conclude that appeal proposal would have a significant effect on wildlife. Any damage caused to the property of surrounding residents is a private matter to be resolved between the relevant parties. The effect of a development on property values is not a planning consideration.
15. A neighbouring occupier has set out personal circumstances in that the development would affect family members who live at the property. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Wider planning considerations are paramount but nevertheless the particular effects of the development in this location are a matter to which I give moderate weight in assessing the proposal. However, I have reasoned above the limited harm that the proposed development would cause, and have found no harm in respect of the PSED factors.

Conditions

16. The Council's officer report, which recommended approval of the scheme, includes a number of conditions which I have considered in the light of the advice in the Framework and Planning Practice Guidance. In some cases, I have edited the suggested condition for clarity and enforceability.
17. As the change of use has already started, the standard time limit and approved plans conditions are not required.

18. To protect the living conditions of surrounding residents, conditions are necessary to restrict the use and hours of operation of the garage as well as requiring the roller doors to be closed except for access and egress and for all vehicle repairs and use of machinery to happen inside the building. In the interests of highway safety, a condition is necessary to ensure the proposed parking arrangements are retained in perpetuity.

Conclusion and Recommendation

19. For the reasons given above, I find that there are no material considerations of sufficient weight which indicate that a decision should be made other than in accordance with the development plan. I therefore recommend that the appeal should be allowed and planning permission granted subject to the conditions listed above.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and my representative's report and on that basis I allow the appeal and grant planning permission subject to the conditions listed above.

A Price

INSPECTOR