



Appeal Decision

Site visit made on 18 November 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/A1910/W/24/3345676

Land at Hicks Road, Markyate, Hertfordshire AL3 8LL

- 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 Steve Badcock (SJB) against the decision of Dacorum Borough Council.
 - The application Ref is 24/00175/RET.
 - The development is described as change of use to store scaffolding.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use to store scaffolding on land at Hicks Road, Markyate, Hertfordshire AL3 8LL in accordance with the terms of the application, Ref 24/00175/RET, and drawing numbers BP01 Rev A, BP02 Rev A, EL01 and EL02, and subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision.
 - 2) Machinery shall be operated, processes shall be carried out, and deliveries/scaffolding equipment shall be taken at or despatched from the site, only between 07:00 to 18:00 Mondays to Fridays, and not at any time on Saturdays or Sundays, or on Bank or Public Holidays.

Procedural Matters

2. I understand that the use of the site to store scaffolding started in November 2013. Whilst objections have been raised to the retrospective nature of the application, I have dealt with the appeal on its planning merits.
3. In addition to the use, the submitted plans depict monoflex screening behind existing hoarding along part of the site's boundaries. That screening is referred to in the Planning Statement which accompanied the application; and the Council's second suggested condition in the event that the appeal is allowed also states that the development shall be carried out in accordance with those plans. Consequently, whilst the Council states that the development does not include the monoflex screening, I have considered it as part of the appeal, along with the representations made regarding it.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

Character and appearance

5. The site falls within a General Employment Area ('GEA') as designated in the Dacorum Borough Local Plan 1991-2011 (2004) ('DLP'). The Council maintains that as the use of the site for the storage of scaffolding is sui generis, and that as DLP Policy 31 and Dacorum Core Strategy 2006-2031 (2013) ('DCS') Policy CS15 seek to protect GEAs for Class B uses, the development is incompatible with the character of the area.
6. I note that land to the north of the appeal site has been allocated for housing in the Dacorum Site Allocations Written Statement (2017) ('DSA') and, whilst it is still at an early stage, the site is allocated for residential development in emerging Local Plan Policy Mk03. The appellant states that a residential planning application is being prepared on the appeal site. On that basis, I have no cogent reason to disagree with both principal parties that the site is likely to be developed for housing in the future. As such, the appellant describes this development as a 'meanwhile use'.
7. DLP Policy 10 sets out that temporary uses will be permitted provided that they are compatible with the character of the surrounding area; and that they would not prejudice the achievement of any specific proposal in the plan or any other appropriate use of the site. The Council accepts that the scheme complies with the second tranche of that policy. Given the nature of this storage use, I agree that it would not prejudice the land coming forward for housing in the future.
8. The site was previously vacant, but it has planning permission for an MOT centre as part of the much larger mixed use redevelopment depicted at Appendix 7 of the appellant's statement. It abuts the busy A5183 to the east, and there is housing and a health centre to the west, with more housing on the opposite side of Hicks Road to the south. There is parking immediately to the north/north-west, along with commercial activities including car repairs and engineering. It is unclear which Use Class those commercial activities fall within but, irrespective of the GEA designation, the use of this site for the storage of scaffolding is not at odds with the diverse character of the surrounding area.
9. The monoflex screening is located close to the plot boundary facing Hicks Road, with only its uppermost section protruding above the hoarding in the streetscene. Whilst that hoarding is tired-looking, I understand that it is pre-existing, and that it forms no part of this scheme. I agree with the Council that the hoarding largely screens the activities taking place on the site from most public views. Consequently, neither the monoflex screening, nor the use for the storage of scaffolding, have had a significantly harmful impact on the appearance of the area.
10. Whilst DLP Policy 31 seeks to protect GEAs for Class B uses, its accompanying table has the Hicks Road GEA 'struck through' indicating that that part of the policy has not been saved. Moreover, the pre-amble to DCS Policy CS15 states that this GEA will be remodelled through mixed use redevelopment. On that basis, there would appear to be only a very limited conflict with those policies.
11. In any event, given that the site was previously vacant and that it is likely to be developed for housing in the future, and that much of the surrounding land

has been redeveloped, even if the appeal were to be dismissed it seems to me that the prospects of a Class B Use coming forward and being constructed are poor. That conclusion is supported by the Council's own assessment of the site at Appendix 4 of its Employment Development Background Topic Paper 2020.

12. For these reasons, this temporary use is compatible with the diverse character of the surrounding area, and it does not therefore conflict with DLP Policy 10, nor with the similar stance in DCS Policy CS1. The appellant states that six staff are employed. Thus, this use directly and indirectly supports economic growth and jobs, and there is no conflict with DCS Policies CS4 and CS14.
13. Summing up, whilst development plan policies pull in different directions, I am satisfied that the scheme does not conflict with its overall thrust when considered as a whole. Finally, as the development supports economic growth, it does not conflict with the stance in National Planning Policy Framework ('Framework') paragraphs 85 and 86.

Other matters

14. The site utilises an access from the A5183, which can be busy and congested. However, highway visibility in each direction from the access is good, and I have no cogent reason to doubt that the use generates a limited number of vehicular movements, principally from two flatbed trucks. Whilst such vehicles are slow moving, they are also large and easily seen; and there is space within the site for the parking of vehicles.
15. Hertfordshire Highways raised no objections to the application, commenting that it utilises an existing commercial/industrial vehicle access. For all these reasons, I consider that the use does not have a significant impact on the safety or convenience of highway users, parking pressures on nearby roads, or on air quality.
16. A few local residents have expressed concerns regarding noise emissions. However, given the presence of other nearby commercial uses, and that some representations refer to a proposed use, or a use that was only briefly operating earlier in the year when I understand that it has been operating throughout, it is not clear to me that any such disturbance has arisen as a result of this use on this site. The Council's Environmental Health Team also raised no objections on the grounds of noise emissions.
17. The use also needs to be considered in the context of the extant planning permission as an MOT centre, which would also generate noise. However, in order to mitigate the impact on local residents' living conditions, hours of operation could be controlled by means of a planning condition.
18. I have no persuasive evidence that the use has resulted in an increase in the amount of litter in Markyate. Finally, given the significant distance to listed buildings and to the Markyate Conservation Area, and the substantial scale of intervening development, the scheme has not harmed the setting of designated heritage assets.

Conditions and Conclusion

19. Turning to the matter of conditions, I have considered those suggested against the Framework's tests, making amendments where necessary in the interests of clarity and precision. Both principal parties refer to the use as temporary as

the site is likely to be developed for housing. Consequently, having regard to the DSA and the emerging Local Plan, I have imposed the suggested condition that it shall cease within three years of my decision. As the use is already taking place, I have referenced the approved drawings in my decision, rather than requiring that the development be carried out in accordance with them.

20. Given the site's proximity to residential properties, and that moving metal poles and equipment could generate noise, a restriction on hours of operation is necessary in order to protect nearby occupiers' living conditions.
21. The appellant's suggested condition would not allow operations to take place at weekends, whilst the Council's suggestion would allow them from 08:00 to 13:00 on Saturdays. Given that weekends are a time when residents are most likely to be at home and could reasonably expect to peacefully enjoy their homes, I consider that no operations should be allowed at that time.
22. Turning to weekdays, for similar reasons, I agree with both principal parties that operations should cease at 18:00. There is disagreement with regards the proposed starting time, with the Council suggesting 08:00, and the appellant 07:00. I have very limited information before me on this matter, and no detailed or quantitative evidence to demonstrate that the existing use is causing significant harm; or evidence that adjacent commercial uses, which also generate noise, are similarly restricted. I also note the absence of a representation on this matter from the Environmental Health Team. Thus, I have imposed the restriction suggested by the appellant.
23. For the above reasons, I conclude that the scheme has not harmed the character and appearance of the area. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR