



Appeal Decision

Site visit made on 26 February 2025

by **H Miles BA (hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th March 2025

Appeal Ref: APP/K2230/W/24/3356229

Rear of Livingstone Road Stores, 10 - 12 Livingstone Road, Gravesend, Kent DA12 5DZ

- 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 Mathurjan Bathmanathan against the decision of Gravesham Borough Council.
 - The application Ref 20240320 was approved on 12 June 2024 and planning permission was granted subject to conditions.
 - The development permitted is installation of a temporary storage unit situated behind a shop.
 - The condition in dispute is No 1 which states that: The development hereby permitted is granted for a three year limited period only from the date of this decision. On or before three years from the date of this decision the storage container shall be removed from the site in its entirety unless further planning consent has been obtained.
 - The reason given for the condition is: In order that the situation can be reviewed at the end of the period hereby granted, having regard to impact on the amenity of surrounding properties and the surrounding highway network in accordance with Policies CS11 and CS19 of Gravesham Local Plan Core Strategy (2014) and saved policy P3 of the Gravesham Local Plan First Review (1994).
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Decision

1. The appeal is allowed and the planning permission ref 20240320 for installation of a storage unit at Rear of Livingstone Road Stores, 10 - 12 Livingstone Road, Gravesend, Kent DA12 5DZ granted on 12 June 2024 by Gravesham Borough Council, is varied by deleting condition 1 and substituting it for the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from 12 June 2024.
 - 4) The development hereby permitted, including access to/from or working inside the storage unit and loading or unloading to or from the storage unit, shall only take place between the following hours:
0800 - 1800 Mondays - Saturday
0900 – 1700 Sundays and on Bank or Public holidays.

Preliminary Matters

2. Both the appellant and the officer's report refer to a lorry that has previously been used for storage for this shop unit with photographs dating back to May 2023, although I understand that no planning permission exists for these arrangements. Nevertheless, I am not provided with evidence that a lorry in this parking area would need to be moved or that the Council had taken any steps to require this. Therefore, taking into account that this is a vehicle, considering the circumstances

of this particular case, I have taken into account the previously ongoing situation at the appeal site.

3. At my site visit a storage container was in place at the appeal site and the lorry had been removed. Albeit the storage unit appeared to be white and not in the timber cladding material proposed. Therefore, for clarity, this decision assesses the proposed development as shown on the plans, on its planning merits.

Main Issue

4. The main issue is whether the condition is reasonable and necessary with particular regard to the living conditions of nearby occupiers and highway safety.

Reasons

5. The storage unit would be located adjacent to residential properties and gardens. The officers report considers this and assesses the effect on living conditions. It concludes that, with the hours of operation being conditioned, the proposed development would not result in a level of disturbance above what is already experienced. Furthermore, with regard to highway safety it does not raise any concerns regarding obstructions or difficulty in manoeuvring in the area. Based on the evidence submitted with this appeal I do not disagree with these conclusions and therefore no harm is identified in these regards as a result of the development proposed.
6. The PPG sets out that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area. However, given that no harm is identified, there are no adverse effects to mitigate and permission should not be refused if the temporary condition were not imposed. Consequently, the condition would not be necessary to avoid a refusal of planning permission.
7. Therefore, the condition is not reasonable and necessary with particular regard to the living conditions of nearby occupiers and highway safety. As such, the proposed development would not be contrary to Policies CS11 and CS19 of the Gravesham Local Plan Core Strategy (2014) and saved policy P3 of the Gravesham Local Plan First Review (2014). Together these require that development safeguards the amenity of neighbouring property and avoids adverse effects from pollution including noise, as well as mitigating impacts on highways and making provision for parking amongst other things.

Other Matters

8. The description of development on the application form and decision notice refers to a temporary storage unit. The planning statement refers to the timescale as being while the premises are being run by the appellant, however there is no indication as to how long this period would be and therefore a specified time when the circumstances would change. Nor that any other solutions are likely. In addition, this restriction would only be enforceable if secured by condition, which must meet the legal and policy tests, which for the reasons above I have found it would not. Nevertheless, for clarity, the description of development should refer to the act of development only and should be updated to installation of a storage unit.

Conditions

9. Following the deletion of the condition relating to time limits, and in light of the lack of clarity as to whether permission has been implemented in accordance with the approved plans, the standard implementation condition is required although the date has been altered to reflect that of the original planning permission.
10. The conclusions relating to the effect on neighbouring living conditions were on the basis that a condition was attached to secure the hours of operation. A condition securing these hours is therefore reasonable and necessary in the interests of the living conditions of nearby occupiers and for the reasons set out above. The other conditions on the permission remain unaltered and should be read alongside my decision.

Conclusion

11. For the reasons given above, having considered the development plan as a whole, and all other relevant material considerations, I conclude that the appeal should succeed.
12. I will vary the planning permission by deleting condition 1 and substituting a new condition 1, relating to time limits for implementation and a new condition 4 relating to hours of operation. I have also amended the description of development. All other aspects of planning permission 20240320 remain unaltered.

H Miles

INSPECTOR