



Appeal Decision

Site visit made on 28 August 2018

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2018

Appeal Ref: APP/X1925/W/18/3199555

Hitchin Town Football Club, Bedford Road, Hitchin SG5 1NU

- 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 Mrs Louise Kuka against the decision of North Hertfordshire District Council.
 - The application Ref 17/02744/1, dated 27 October 2017, was refused by notice dated 31 January 2018.
 - The development proposed is described as: 'Change of Use of Land for Use as a Car Wash and Valeting Business'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site is stated on the application form to be on Bedford Road. From my observations on site, I am however satisfied that the correct street address, where access is provided from, is Fishponds Road - as stated on the appellant's planning appeal form and the Council's decision notice.
3. The appeal has been considered on the basis of the full description stated on the Council's decision notice; i.e. which, alongside a description of the proposed change of use as stated on the appellant's application form, includes reference to 'the erection of canopy and provision of associated storage container'. The proposed canopy and container are annotated upon the proposed plans and make up part of the appellant's scheme.
4. From inspection, it is noted that there is already a container situated in the same approximate area of the site as proposed. It is also of similar appearance to that which is proposed. For the avoidance of doubt, the appeal has been considered on the basis of the submitted plans; i.e. the proposal would result in a single storage container being positioned upon the appeal site and its immediately surrounding area, rather than the existing storage container being supplemented by an additional container.
5. Since the submission of this appeal, a revised version of the National Planning Policy Framework (July 2018) has been published by the Government (the Framework). This is a material consideration in planning decisions. In this instance both the appellant and the Council were given the opportunity to provide comments with respect to any implications for this case. No responses were received.

Main Issues

6. The main issues are the effect of the proposal upon the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and the effect of the proposal upon the character and appearance of the appeal site's surrounding area, with particular regard to the setting of the Butts Close Conservation Area.

Reasons

Living conditions of neighbouring occupiers

7. The site is bound to the side by the grounds of 68 Fishponds Road (No 68); a large 2 storey detached dwelling that itself neighbours and backs on to other residential properties. There is a mix of uses located within the wider vicinity of the site, including both a nearby junior school and swimming centre.
8. The residential occupiers of No 68 would be the most likely to be effected by the proposal given the property's immediate relationship to the appeal site. Whilst a blank flank wall faces the appeal site and an integral garage is situated adjacent to it, there are a number of what would appear to be primary window openings located within the principal elevation (which is positioned on a building line that is aligned with the location of the appeal site) facing Fishponds Road at both ground and first floor level.
9. I acknowledge that currently there are football games played and events held that will attract a high volume of visitors and result in heavy use of the car park. However, such events would not be expected to occur on a day-to-day basis (indeed the car park was quiet during my daytime inspection of the site) and would, in any event, be typically expected to result in occasional spikes in activity; before or after a football match or social event is held, for example.
10. Whilst it is acknowledged that other non-residential uses occur in the wider proximity of the site, at the time of my site visit, with the exception of noise from traffic using Fishponds Road being audible, the area was otherwise observed to be relatively quiet.
11. It is proposed that a car washing and valeting business occupy the appeal site between the hours of 0800 and 2000 Monday to Saturday and the hours of 1100 and 1800 on Sundays. Both a canopy structure and storage container would be permanently sited on the site as part of the newly proposed use.
12. The proposed use would involve the operation of such equipment as jet washers and vacuum cleaners. In addition, further noise and disturbance would be caused as a result of traffic movements in and out of the site, car doors closing, the starting of engines and general discussions between staff and customers. These operations and movements would reasonably be expected to occur on a regular basis across the full hours of intended operation (notwithstanding that a maximum of 4 cars could be valeted at any one time).
13. The proposal would result in a heavily intensified use of the appeal site when compared to how it is presently used. The 5 existing car parking spaces in question, although now readily available at any time of the day for car parking, would become the base for a commercial operation. This would have a particularly harmful effect on the occupants of No 68 and their enjoyment of their home. Whilst such negative effects would likely extend further than to

the occupiers of No 68, these occupiers would undoubtedly be the ones to feel the fullest impact of the proposed use. Furthermore, I acknowledge that the Council's Environmental Health Officer has objected to the proposal. I also note from the photograph supplied by the appellant that the previous location occupied by the proposed use did not exhibit the same immediate relationship with neighbouring residential property.

14. I acknowledge that the appeal site could potentially hold temporary events for up to 28 days per year without planning permission. Any temporary use of the land would not however result in the continual adverse effects that would be promoted by the 7 day per week use proposed in this case.
15. The proposed storage container and canopy, in terms of their capacity for noise attenuation, would, by virtue of their limited height and extent, be ineffective in mitigating the noise and disturbance that would be created by the proposed use. I have also taken into account the extant landscaped buffer that is in place between the appeal site and No 68, which would again be ineffective in mitigating noise, particularly by virtue of its limited extent. The appellant has stated a willingness to consider the erection of noise attenuating fencing along this particular boundary of the appeal site. I acknowledge that such an installation could assist with providing a degree of mitigation, but consider that it would need to be of a height that would likely require planning permission in its own right so as to provide meaningful benefit in this context. I cannot therefore consider applying a condition with respect to the erection of noise attenuating fencing.
16. There are potentially management measures that could be put in place to seek to control the operation of the site, e.g. vehicles to be turned off when being washed or valeted and no handheld radios to be used. Any such measures of this type would not eliminate either general operational noise or vehicle noise however, and could not realistically be used to control anticipated vacuuming and jet washing activities that are central to the proposed use.
17. The hours of operation that have been proposed are long, in the sense that a 7 day per week operation is proposed that would run for 12 hours a day (with the exception of Sundays). The extent of these proposed hours only serves to reaffirm my concerns with respect to the effect of the proposal on neighbouring occupiers. Even if these hours were to be substantially reduced, I would still have fundamental concerns associated with the impact of the proposed use for the reasons identified above. In light of these concerns, I do not consider that either a permanent or temporary consent should be granted for the proposed use.
18. For the reasons above, I conclude that harm would be caused to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposal fails to comply with Policy D3 of the emerging North Hertfordshire District Council Local Plan 2011-2031 in so far as this policy seeks to protect against unacceptable harm to living conditions and to ensure that adequate mitigation measures are implemented where harm is identified and with paragraph 180 of the Framework which seeks to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development.

Character and appearance

19. The appeal site occupies a discreet location behind the established hedgerow and trees that bound Fishponds Road. It makes up part of a wider car parking and external area that is positioned to the side of the football club's main pitch; this area also accommodates a club house and other ancillary buildings. The established hedgerow and trees demark the boundary of the Butts Close Conservation Area, with the appeal site sitting outside but abutting this boundary. On the opposing side of Fishponds Road is a publically accessible area of open space. The conservation area also contains a number of residential properties that front Fishponds Road, but not the 2 properties located closest to the appeal site.
20. The proposal does not indicate nor necessitate any changes to the existing layers of vegetation that substantially shield the appeal site from public view. I am also mindful that the proposed installations above ground level, i.e. a canopy and storage container, are of modest scale and would not be unduly prominent in their own right. Indeed, the existing storage container that is already in situ in the same corner of the car park is of comparable height to that proposed and is not currently readily visible from Fishponds Road, and the proposed canopy would be only slightly taller in height. Based on the current makeup of the appeal site and its immediate surroundings, the proposal would have no meaningful effect upon views in to or out of the conservation area.
21. I note that during winter months the hedgerow and any other vegetation on the site may not be of the same vigour as it was during my inspection. I also note that there are no guarantees that the vegetation shall remain in perpetuity. There is however no reason to suspect that the vegetative screen would be reduced or diminished in the near future.
22. In any event, the proposal would be viewed against the backdrop of the wider football club site, which the Council concedes does not currently make a particularly special contribution to the character of the area. A palette of proposed materials could be secured by planning condition, to ensure that the proposal's final visual appearance would be controlled through sensitive specification and colouring.
23. For the reasons above I conclude that the proposal would not cause harm to the character and appearance of the appeal site's surrounding area, with particular regard to the setting of the Butts Close Conservation Area. The proposal complies with Policies D1 and HE1 of the emerging North Hertfordshire District Council Local Plan 2011-2031 in so far as these policies seek to ensure that the significance of the heritage asset be preserved and that development proposals respond positively to the site's local context and with part 12 and paragraph 190 of the Framework which seek to ensure that developments are sympathetic to local character and history and avoid conflict with the heritage asset's conservation.

Other Matters

24. I acknowledge that there may well be other car wash facilities located within relatively close proximity to the site. This has not however been afforded any material weight in this decision.

Conclusion

25. For the reasons above, I conclude that the appeal should be dismissed.

Andrew Smith

INSPECTOR