



Appeal Decision

Site visit made on 8 June 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/H4505/W/23/3315217

Land to the west of Sainsburys Supermarket, Eleventh Avenue, Team Valley, Gateshead NE11 0JY

- 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 Location 3 Properties Limited against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/21/01368/FUL, dated 19 November 2021, was refused by notice dated 27 October 2022.
 - The development proposed is the construction of a building for flexible employment-based development for B8 (Storage and Distribution) or as a Builders' Merchant (Sui Generis), with associated hardstanding, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was changed during the course of the planning application to reflect changes to the uses that are proposed. I have therefore used the description as it appears on the decision notice and appeal form in the banner header above.
3. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement is therefore not required.

Main Issues

4. The main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the efficient operation of the highway network and upon highway safety.

Reasons

Character and appearance

5. The appeal site is a vacant and overgrown parcel of land located between Kingsway South and a supermarket. Kingsway South is a dual carriageway which leads from a roundabout on the A1 and passes through the established industrial and commercial Team Valley Trading Estate. The surrounding area is characterised for the most part by functional buildings and a corresponding functional road layout, however the presence of mature trees and other planting is a positive visual contributor to the area, and it considerably softens the harshness of the general surroundings. The Council advises that the appeal

- site is on the edge of, but not within, a locally listed park and garden, although no specific details of this designation have been provided.
6. A great number of mature trees run along the boundaries of the appeal site which are shared with both Kingsway South and Chowdene Bank. The presence of mature trees is also characteristic of the estate in areas close to the appeal site. As one of the first visual receptors when entering the estate from the A1 roundabout, they make a valuable contribution to the character and appearance of the area. Indeed, the Arboricultural Impact Assessment provided with the application submission classifies the majority of these as category B trees, with some category A trees also present. The proposal would necessitate the removal of most of those trees and would open up views into the appeal site, and of the building that is proposed to be built upon it.
 7. The rear elevation of the proposed building would face towards Kingsway South, placing a large mass of mostly unbroken wall very close to the western site boundary. Due to its bulk and positioning, the proposed building would be a visually dominant feature within the street scene. The impact that would arise on the character and appearance of the area from the proposed development would be harmful in two respects; firstly, due to the loss of the trees which make such a positive visual contribution to the area and, secondly, due to the design and massing of a new building that would be in such close proximity to Kingsway South.
 8. Trees on the appeal site have been subject to a tree preservation order (TPO), although it would appear that this order has now lapsed. The Council suggests that a new order is to be made, but no confirmation of the progress of this has been provided. Following the making of the original order, the appellant enlisted a separate tree specialist to provide comments as to why, in their opinion, the serving of the TPO was not well founded. The findings of the second survey contradict the first in terms of the life expectancy of the trees. But, irrespective of this, the likely life expectancies of the vast majority of the trees as stated in the second survey are not so short to justify their removal to facilitate the proposed development.
 9. I acknowledge that some existing buildings close to the appeal site are large in size and built close to the road with limited screening, and that the surrounding area is industrial and commercial in its character. The A1 also passes close by at an elevated level. But nonetheless there are other parts of the estate close to the appeal site where mature trees help to define its character and contribute positively to its appearance and the impact that it has on the surrounding area. This includes on the opposite corner of Eleventh Avenue, on sites further down Kingsway South and via street trees. In this context, the presence of that existing development which contributes less positively to the area does not justify the harm that would be caused by the appeal proposal.
 10. For these reasons, I conclude that the harm caused by the proposed development to the character and appearance of the area would be significant. Consequently, the proposal would fail to accord with Policies MSGP24 and MSGP36 of the Site Allocations and Development Management Policies 2021 (SADMP) and Policy CS15 of the Core Strategy and Urban Core Plan 2015 (CSUCP), where they seek to protect character and appearance. There would also be a conflict with the aims of the National Planning Policy Framework (the Framework) where it seeks to achieve well-designed places.

Highway matters

11. Reason for refusal 2 states that the proposal would not mitigate the additional vehicle movements it would generate in an existing heavily trafficked area or maximise access to the site by sustainable modes of travel or provide direct, safe, secure and continuous pedestrian and cycling links.
12. It is not clear from the Council's submissions as to whether they consider that there would be harm to the safe and efficient operation of the highway from the level of traffic generated by the proposed development *per se*, and if so on what basis this conclusion is reached. It would certainly appear that the surrounding roads are heavily trafficked, as would be expected given the size of the industrial and commercial estate, the nature of the uses that take place there and the close proximity to a major motorway. However, the surrounding road network appears to be designed and set out to serve the industrial and commercial uses in the area, and to provide access to and from the motorway network.
13. The Transport Statement submitted by the appellant finds that the highway would have capacity to absorb the traffic generated by the appeal proposal. National Highways do not raise an objection in terms of any implications that may arise on the motorway network and the roundabout at the end of Kingsway South which adjoins the A1. There is therefore nothing substantive before me to demonstrate that the traffic generated by the proposed development would have an unacceptable impact on highway safety or that the residual cumulative impact on the road network would be severe, which are the tests set out both in paragraph 111 of the Framework and within a criterion of Policy MSGP15 of the LP.
14. The alternative interpretation of the position put forward by the Council is that they deem the parking provision proposed to be inadequate. Whereas the appellant considers that 28 spaces would be sufficient to meet the needs of any operator, be it a B8 use or a builders' merchant, the Council refers to its parking standards set out in Appendix 4 of the SADMP, which they consider would require 70 spaces for the builders' merchant use.
15. The Council's parking standards for builders' merchants are aligned with a retail use. In reaching their figure of 70 spaces, all of the internal area of the ground floor of the building has been taken into account. However, whilst the proposed builders' merchant would be accessible to the general public, as the appellant sets out this would be predominantly to provide a showroom for people to view products that they might wish to purchase for works that the trade is undertaking for them. Their interest would be likely to be confined to those products in the showroom such as kitchens and bathrooms, and not to viewing bulk materials stored either inside or outside the building.
16. It is therefore reasonable to make an assessment of the parking needs on the basis of the showroom and office area only. This it is said would generate a parking requirement of 25 parking spaces, which would be provided. This would therefore mean that the proposal would provide an adequate number of parking spaces and would not cause harm to highway safety with respect to parking matters.
17. The Council sought the widening of a section of cycle path running along Chowdene Bank in mitigation against what they considered to be an under

provision of car parking. However, as I have found the proposed parking provision to be acceptable and, because the proposed development would not in itself lead to a significant increase in the number of people using the cycle path, the widening of it would not be necessary to make the development acceptable in planning terms nor would it be fairly or reasonably related in scale and kind to the development. Consequently, it would not meet the statutory tests set out in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010, which are also contained within paragraph 57 of the Framework.

18. Policy CS13 of the CSUCP does seek to promote sustainable transport choices, but the Council's main justification for enhancing the cycle network, relating to car parking provision, has fallen away in light of my findings above. However, noting that it is highly unlikely that members of the general public or trade customers would visit a builders' merchants on a cycle, the appellant intends to provide employee facilities for those people that did choose to travel to work on a bike. This would help meet the aims of Policy CS13 where it refers to sustainable travel.
19. The matter of concern that forms reason for refusal 3 relates to turning provision for flat bed heavy goods vehicles (HGVs). However, providing that access is available to the service yard at all times when the business is open, which the appellant confirms could be the case, then there would be the ability for HGVs to turn around within the appeal site. This could be controlled by way of a planning condition requiring the gates to the service yard to remain open during business hours, and through the submission and agreement of a service yard management plan. Accordingly, this would ensure that there would not be an adverse impact on the surrounding highway network in terms of the movements of HGVs.
20. For the reasons given above, I conclude that the proposed development would not cause harm to the efficient operation of the highway network or upon highway safety. Therefore, the proposal would accord with Policy MSGP15 of the SADMP and Policy CS13 of the CSUCP where they seek to ensure that new development does not cause harm to highway safety and that it promotes the enhancement and delivery of an integrated transport network. There would also be no conflict with the aims of the Framework in those regards.

Other Matters

21. The proposal would make use of vacant land in an employment area and would not cause conflict with surrounding uses. It would also promote economic development, create jobs and provide biodiversity net gain. Whilst these would be benefits of the proposal which weigh in its favour, there is no substantive evidence before me to demonstrate that the same benefits could not be achieved in a way that would not cause the significant harm to character and appearance that I have found.
22. In particular, the appeal site is large in size and there would appear to be reasonable scope to avoid the impact that would be caused by the loss of the trees. Matters relating to the site being unkempt would also be addressed in such a scenario. Therefore, in these circumstances, the benefits of the proposal as set out carry only limited weight in favour of the proposal.

Planning Balance and Conclusion

23. Whilst I have found that the proposed development would not cause harm to the efficient operation of the highway network or upon highway safety, it would cause significant harm to the character and appearance of the area and would fail to accord with Policies MSGP24 and MSGP36 of the SADMP and Policy CS15 of the CSUCP. This harm would not be outweighed by the benefits of the proposal, which for the reasons I have given carry limited weight. Therefore, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR