
Appeal Decision

Site visit made on 3 September 2015

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 December 2015

Appeal Ref: APP/G4620/W/15/3121588

Land off King Street, Smethwick, Birmingham B66 2JE

- 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 Rajbinder Thandi against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/15/57856, dated 23 January 2015, was refused by notice dated 17 April 2015.
 - The development proposed is a waste transfer station on land at King Street, Smethwick.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council re-notified third parties of the appeal due to an error in the original consultation process. The Council has confirmed that no further comments were received as a result of re-notification.

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the local area.

Reasons

4. The appeal site is an irregular shaped parcel of undeveloped land off King Street. The immediate area to which the appeal site belongs has an industrial character with some modern premises standing alongside other sites and buildings that by their age and condition are reminders of former engineering uses. In addition, there is a vacant public house nearby and a banqueting centre on the opposite side of King Street. A little further away is a large site that has been cleared for residential development, off Lewisham Road, which is referred to as Brindley Village (BV). As the appeal site is open land and vacant, I consider that it has a neutral effect on the character and appearance of the area.
 5. Unlike some of the nearby industrial and commercial units, the appeal site falls within the Smethwick Summit, Galton Valley, Smethwick Conservation Area (CA). From what I saw, the CA derives part of its significance as a designated
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- heritage asset from the canal that runs through it and the historic buildings and structures along the corridor of this watercourse. The towpaths along this canal also offer welcome respite and visual relief from the busy roads and utilitarian industrial buildings within the surrounding area.
6. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 7. The proposal is to introduce a waste transfer station on the appeal site. The new site operation would involve the importation of non-hazardous waste. It includes the erection of an office portacabin, an enclosed sorting shed, three external waste storage bays, a weighbridge, a storage area for skips and parking spaces for cars and larger vehicles, with a single access off King Street. All the waste would be tipped, sorted and picked within sorting shed situated towards one corner of the site. Hardcore, soil and wood would be stored within the external bays presumably in containers for re-use off site.
 8. To my mind, the grant of planning permission for up to 300 dwellings on the BV site, as indicated in the evidence before me, has the potential to significantly alter the character of the area further away from its industrial origins. There is nothing before me to indicate that the BV residential scheme is unlikely to proceed. It is, therefore, a likely prospect that housing will come forward on the BV site. In those circumstances, it is necessary for me to assess the proposal in the light of the changes to the area that would result from this approved scheme.
 9. The BV site is a substantial area of land that also extends along the side of the canal. The highway frontage of the BV site to Lewisham Road would be relatively close to the appeal site, being separated from it only by the highway and an area of open ground with some trees. Depending on the final design details of the BV scheme it is possible, if not likely, that housing would be visible from Lewisham Road and the canal, which would give the immediate vicinity of the appeal site a far more mixed industrial and residential character. New dwellings close to this part of the canal could make the walk along the towpath even more appealing to users. The likely residential development of the BV site would, therefore, have a transforming influence on the character and feel of the local area and this part of the CA.
 10. Against that background, there is every indication that in the future the local area will have a mixed industrial and residential character that may also include a stronger recreational element deriving from the use of the canal. Reference is also made to the growth of the nearby banqueting centre, in the form of a significant extension on King Street. This facility holds events such as weddings that are likely to attract significant numbers of people into the immediate area of the site. According to the representations before me, the banqueting centre is open during the week, when the proposal would also be operating. Taken together, it seems to me that the local townscape and nearby uses would have a high sensitivity to the likely change that would result from the introduction of a new waste transfer station.
 11. According to the appellant, the level of traffic movements associated with the proposal is likely to be modest. No more than about 16 trips a day by vehicles

- with skips are expected together with up to 4 visits per week by vehicles to take away waste material stored on site. Even so, the activity and movement of lorries carrying waste and skips to and from the site and using local roads would clearly identify the proposed use as receiving and processing waste.
12. The new gates across the site's entrance would only open for vehicles to drop off waste or to pick up skips for delivery to customers. However, this access would be prominently located on King Street, across from the banqueting centre. A 2-metre high palisade fence would enclose the site that would partly screen the utilitarian buildings together with the external storage bays and the skip holding area. This boundary feature would not, however, disguise the new waste transfer facility. It would also do little to quell the potential noise and disturbance from lorries depositing and picking up skips and the movement of waste within the site. For all of these reasons, I consider that the appeal scheme would exert a very strong local influence.
 13. Drawing these various points together, it is my judgement that there would be an awkward juxtaposition of waste processing with the residential development on the BV site and in relation to the recreational use of the canal. The proposal would be an unsympathetic addition to an area of acknowledged heritage value and it would be a poor neighbour to the nearby banqueting centre. Despite the modest scale of operation, which would be family-based, the new development would result in a high magnitude of change to the local area, to the detriment of its character and appearance and that of the CA.
 14. According to the Council, the site is allocated for employment use, where the principle of waste operations is acceptable in principle. Specifically, Policy EMP3 of the Black Country Core Strategy (CS) states that local quality employment areas will provide for the needs of locally based investment and will be safeguarded for waste collection, transfer and recycling uses. CS Policy WM4 also notes that waste management operations should be contained within a building, as proposed. However, it does not necessarily follow that all such employment sites are, therefore, suitable for this type of use. In this case, the area to which the site belongs is not just industrial in character given its inclusion within the CA, the proximity of a large-scale residential development, and the influence of the canal and a neighbouring use.
 15. A possible fall back position for the site if the appeal were to be dismissed might reasonably include industrial development that could be served by heavy goods vehicles. However, to be acceptable, such an industrial use would need to be compatible with its context, which would not be the case with the proposal before me.
 16. When considering the impact of a proposal on the significance of a designated heritage asset, the National Planning Policy Framework (the Framework) advises that great weight should be given to the asset's conservation, as I have done. As designated heritage assets are irreplaceable, the Framework explains that any harm should require clear and convincing justification. In this case, the harm resulting from the proposal on the significance of the CA would be less than substantial. The Framework requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposed development.

17. In this instance, significant weight should properly be given to the waste management and the climate change benefits of the proposal. The new development would also add to the local economy both during construction phase and once the new facility is operational. However, I consider that these public benefits do not outweigh the harm that I have identified.
18. On the main issue, I therefore conclude that the proposal would significantly harm the character and appearance of the local area. It would fail to preserve the character and appearance of the CA, to which I attach considerable importance and weight. Accordingly, it conflicts with Policy SAD HE 2 of the Council's Site Allocations and Delivery Development Plan Document. This policy aims to ensure that development within the CA preserves or enhances its character and appearance and demonstrates how it will better reveal its positive elements.
19. The main thrust of relevant planning policies is to support sustainable waste management by providing sufficient opportunities for new waste facilities of the right type, in the right place and at the right time. For the reasons set out above, I do not consider that the site is the right place for the proposal. The Framework states that development should be permitted if its impacts are, or can be made, acceptable through, for example, the imposition of planning conditions. However, in this case the proposal would not respond to the local character and the impact of the appeal scheme could not be made acceptable.
20. I also note that the Officer's report recommended that planning permission should be granted. The Council's Highways Officer, Environmental Health Officer and its Scientific Officer – Air Quality, all raised no objection subject to conditions. Even so, I have assessed the proposal on its own merits and find it unacceptable for the reasons given.

Conclusion

21. Overall, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR