



Appeal Decision

Site visit made on 16 September 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/C1055/W/19/3232240

Mitre Hotel, Osmaston Road, Derby DE24 8NG

- 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 Eurogarages Ltd against the decision of Derby City Council.
 - The application Ref 18/01748/FUL, dated 6 November 2018, was refused by notice dated 24 May 2019.
 - The development proposed is the demolition of former public house and redevelopment of site for Starbucks Coffee shop with drive-thru.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 9th October 2019.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of former public house and redevelopment of site for Starbucks Coffee shop with drive-thru at Mitre Hotel, Osmaston Road, Derby DE24 8NG in accordance with the terms of the application, Ref 18/01748/FUL, dated 6 November 2018, subject to conditions contained in the Schedule attached to this Decision.

Procedural Matters

2. During the Council's consideration of the planning application, revised drawings were submitted, which re-orientated the proposed building. The application was determined on the basis of the revised drawings. I too have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located on the corner of Osmaston Road and Harvey Road, adjacent to a very busy roundabout. There is a variety of uses within the vicinity. On the opposite side of the roundabout two-storey terraces line either side of the road with shops and commercial units at ground floor with office/residential units above. The other three roads leading off the roundabout are primarily residential, although there are sporadic larger commercial units. The corner plots of the roundabout junction are occupied by buildings of varying uses, designs and sizes. Overall, the eclectic mix of uses

- and property designs make a positive contribution to the character and appearance of the area.
5. The appeal site comprises a substantial, two-storey, largely unaltered 1930's 'Tudorbethan' building with a large open car parking area to the side and rear. Due to its size and forward position within the site, the building is a dominant feature within the streetscene and is clearly identifiable as a landmark feature. However, this is only really appreciable when approaching the site from the north and west as the main elevation fronts onto Osmaston Road. There is a secondary entrance fronting Harvey Road, although this side elevation is not as imposing in scale as the front elevation. Furthermore, when approaching from the east, the rear service area is plainly visible from the road, which due to its various additions creates an unattractive, incoherent elevation. Moreover, the building is currently vacant and boarded up and clearly has been for some time.
 6. Therefore, whilst, the building has some pleasant characteristics that make a positive contribution to the character and appearance, particularly along Osmaston Road, its unattractive rear elevation and vacant and neglected appearance limit this contribution. Furthermore, the large expanse of vacant car parking on the site, when read in combination with the hard appearance of the adjacent heavily engineered highway junction, detracts from the appearance of the site and area.
 7. The proposed building would be set back within the site and would be single-storey in height and therefore would not appear as dominant as the existing building. However, the building would be of a contemporary design, complementing the eclectic mix of building designs in the locality. Furthermore, the building would be orientated so that it engages with both Osmaston Road and Harvey Road, whereas the existing building only positively addresses Osmaston Road, albeit there is a secondary entrance fronting Harvey Road. To the front of the building would be the customer parking area, which would be landscaped with planting to soften its appearance, providing visual relief between the large expanse of hardstanding and the adjacent junction. Overall, I consider that the proposed development would make a positive contribution to the character and appearance of the area, equal to, if not greater than, the existing site.
 8. I acknowledge the Council's concern that, due its prominence, the site should accommodate a much larger, imposing building, such as the existing one. However, no such scheme is before me. I note that planning permission has previously been granted for the redevelopment of the site as part of a wider scheme for a Tesco store and market stalls with car park¹, which also included the demolition of the existing building. This permission was not implemented. There is no evidence before me of any other proposals for the site coming forward. Therefore, I have determined the proposal on the basis of what is before me. Were I minded to dismiss the appeal, there is a reasonable likelihood that the existing site would further deteriorate and detract from the character and appearance of the area.
 9. I find therefore that the proposal would not significantly harm the character and appearance of the area. As such, it would comply with Policies CP3 and CP4 of the Derby City Local Plan – Part 1 Core Strategy 2017, which, amongst

¹ Council ref 08/10/01063

other things, seek high quality, well designed developments that will raise the overall design standards of the City and make a positive contribution towards the character, distinctiveness and identity of our neighbourhoods. In addition, it would accord with the design objectives of the National Planning Policy Framework (the Framework).

Conditions

10. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
11. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
12. In the interests of the character and appearance of the area, a condition is necessary regarding a landscaping scheme.
13. Details of the proposed external materials for the building have been submitted and no objection has been raised regarding them. I find no reason to conclude otherwise. Therefore, it is not necessary to require further details regarding these materials. Furthermore, as the details are set out on the drawings submitted, it is not necessary to impose a condition requiring that they are implemented, as the condition requiring the development is carried out in accordance with the approved plans already secures this.
14. A landscaping scheme was submitted with the application. As there is no objection raised regarding this scheme and no reason provided for the suggested condition requiring a landscaping scheme, I am satisfied that the scheme is acceptable. Similarly, the scheme also includes details regarding boundary treatment and includes the retention of the boundary wall along the rear of the dwellings on Whitehurst Street. However, conditions requiring the implementation of the landscaping scheme and boundary treatment are necessary in the interests of the character and appearance of the area.
15. In the interests of flood prevention, a condition is necessary regarding surface water drainage. It is not necessary to include the list of requirements in the condition as suggested by the Council as it is for the local planning authority to approve the details submitted, providing they are satisfied with them.
16. In the interests of the living conditions of neighbouring residents and highway safety, a pre-commencement condition is necessary requiring a Construction Method Statement.
17. The details of the site access are included in the submitted drawings and no objection has been raised regarding them. Therefore, there is no need to require further details to be submitted. However, a condition is necessary requiring that these details are implemented, in the interests of highway safety.
18. In the interests of highway safety, a condition is necessary regarding the provision of cycle stands and car parking and manoeuvring and the maintenance of the visibility splay.

19. The Council has suggested a condition regarding the installation of bollards. However, in the absence of any justification for this condition, I shall not impose it.
20. The Council also suggest a condition restricting the hours of operation but have failed to suggest any restrictive hours. Nevertheless, the appellant has indicated that they would accept a condition restricting the opening hours to 0600-2300. Given the proximity of the site to residential properties, I consider that such a condition is necessary in the interests of protecting the living conditions of the occupants of these properties.

Conclusion

21. For the reasons given above, the appeal is allowed.

Alexander Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:1, 01B, 4, 5, 6 and 7c.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping as set out on drawing 01B shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) The approved boundary treatment as set out on drawing 01B shall be fully constructed prior to the hereby approved development being brought into use.
- 5) No development (excluding demolition and site clearance) shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority.
- 6) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

The Statement shall provide for:

- i) hours of working; ii) the parking of vehicles of site operatives and visitors; iii) measures to control the emission of dust and dirt during construction (including measures to prevent mud/debris from being transported onto the public highway); iv) noise management procedures; and v) a scheme for recycling/disposing of waste resulting from construction works.

- 7) No part of the development hereby permitted shall be brought into use until the changes to the exit from the development on to Osmaston Road as shown on drawing 7c have been completed.
- 8) No part of the development hereby permitted shall be brought into use until provision has been made within the application site for:
 - a. parking of cycles in accordance with details submitted to and approved in writing by the Local Planning Authority. The cycle stands shall be covered, and that area shall not thereafter be used for any purpose other than the parking of cycles; and
 - b. car parking and manoeuvring. These areas shall be metalled, drained and lit.
- 9) Nothing shall be constructed or allowed to grow above 600mm in height within the visibility splay shown to the east of the exit onto Harvey Road as shown on Drg 7c.
- 10) The premises shall only be open for customers between 0600-2300.