

Appendix A

Appeal by Mr David Hopkinson

Land at 194-196 Newbold Road, Newbold, Chesterfield.

CHE/22/00276/RET

1. Planning permission was refused on 11th October 2022 by Planning Committee against the advice of officers for the retention of a fence and change of use of then frontage to sale of garden sundries and plant sales and display and sale of garden buildings together with cladding the building exterior at 194-196 Newbold Road. The reasons for refusal were:
 - The introduction of retail sales and fencing to the site frontage will result in harm to the character of the street scene detrimental to the visual amenity of the area contrary to Policy CLP20 of the Adopted Local Plan.
 - The introduction of a frontage sales area will result in a loss of off street parking provision for the premises resulting in indiscriminate parking along the street conflicting with the bus stop and cycle paths adversely impacting on the amenity of the area. As such the proposal is contrary to policies CPL20 and 22 of the Adopted Local Plan.
2. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
3. The main issues were
 - a. The effect of the proposal on the character and appearance of the area.
 - b. The effect of the proposal on parking and highway safety on Newbold Road.

Character and appearance

4. The appeal site occupies a sizeable area and comprises a building, partly occupied by a builder's merchant/landscaping business, and a large yard used for external storage to the rear. The garden centre that forms the appeal proposal occupies the front of the building and the forecourt. Parking space for at least 2 vehicles with direct access from the road is provided at the front of the building for use by garden centre customers only and plans submitted with the application

indicate that additional parking space is available for customers within the yard at the rear.

5. Newbold Road is predominantly residential in character although there are a number of non-conforming uses including a public house and petrol filling station, as well as the appeal site, in the vicinity. The road is wide, with cycle lanes on both sides and demarcated on-street parking lanes. The boundary treatments to residential properties comprise predominantly low walls and hedging and the street is lined with trees. Accordingly, whilst the road is busy with traffic, the area has an attractive character and appearance.
6. The fencing erected around the front of the site is of galvanised welded steel mesh, coloured pale grey. Such fencing would not normally be associated with a residential area given its stark appearance and commercial character. However, in the context of the wider site, which has a well-established commercial appearance, the inspector considered the fence does not appear incongruous. Moreover, given the open nature of its construction and its pale colour, the fence is both visually lightweight and transparent, such that the plants and goods behind it are visible. The inspector considered the plants soften and distract from the appearance of the fence and accordingly, the fence is not unduly prominent and, given its association with the business use of the premises, does not cause harm to the character or appearance of the wider area.
7. The site has a long history of use as a builder's yard which appears to pre-date planning control. Photographs indicated that the forecourt was previously an area of concrete used as a car park, unrelieved by screening or planting. There is no evidence before the inspector to demonstrate that there was a restriction on the storage of goods at the front of the premises. Even if that was the case, whilst the plants and goods for sale are readily apparent, the use of the forecourt in the manner proposed provides an active frontage and as such contributes to the vitality of the area. The plants are not in themselves unattractive, and the timber structures are sited to one side of the forecourt and as such are not intrusive. Accordingly, on that basis and given the width and busy character of the road the displayed goods are not visually overbearing.

8. Evidence before the inspector indicated that the building, a large mid-century building constructed in brown brick, was previously clad in red at ground floor level with red railings/gates and a substantial red and white sign at first floor level. That external finish may have been in place for a limited period but it seemed to the inspector that the alterations to the external appearance of the building, which include the removal of the red panelling and the installation of timber panels, softens the appearance of the brickwork and has made a significant improvement to the building.
9. Taking all these matters into account, the inspector concluded on this issue that the proposal does not cause significant harm to the character and appearance of the area. Moreover, the proposal is in accordance with Policy CLP20 of the Chesterfield Local Plan (the Local Plan) which requires that all development should respond positively to the character of the site and its surroundings and respect the local distinctiveness of its context.

Highways safety and parking

10. Following revisions to the proposal during the application process, the plans indicated provision of 10 parking spaces within the site, the majority of which are at the rear of the site with a further 2 for customers at the front. The inspector understood that 10 spaces were previously provided on the front.
11. The inspector took into account the concerns of the Council and local residents that the level of parking provision provided is insufficient and will result in indiscriminate parking. At the time of his visit, he noted customers using the parking spaces immediately outside the building although this area is limited in terms of its size. However, the site is located immediately adjacent to a bus stop and the inspector understood there are bus services from there to the wider Chesterfield area. In addition, the site is accessible to occupiers of the immediately surrounding residential area on foot. Moreover, alternative parking spaces are available at the rear and no objections have been raised by the Highway Authority in terms of either the overall parking provision or the effect of the proposal on highway safety.

12. Even if customers do not use the spaces at the rear it seemed to the inspector that there is ample available on-street parking space in the vicinity of the site, including in demarcated parking areas, without interfering with the free and safe flow of traffic on Newbold Lane or adversely affecting the living conditions of local residents in terms of available parking space. Whilst he acknowledged the concern that indiscriminate parking could interfere with the cycle lanes and use of the bus stop, he was unconvinced that drivers are likely to behave other than in accordance with the highway code, particularly given the available parking opportunities nearby. He also noted the concern that parked vehicles block visibility for drivers emerging from residential driveways. However, vehicles parked on public highways in residential areas are commonplace. There is no convincing evidence that in this instance, issues caused by parked cars are unduly detrimental to highway safety.
13. On the evidence before the inspector he concluded that the proposed level of offstreet parking provision, and the effect of the development on highway safety, is acceptable. Accordingly, in that respect the proposal is consistent with the requirements of Policy CLP20 of the Local Plan which requires that development should provide adequate and safe vehicle access and parking, and Policy CLP22 which requires that development proposals do not have an unacceptable impact on highway safety or create a severe residual cumulative impact on the road network.

Conditions

1. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment or conditional requirement below. All external dimensions and elevational treatments shall be as shown on the approved plans :
- Floor plans, elevations and site plan 22 878 Rev A received 13.09.22;
 - Fencing detail 1006600 received 01.06.2022;
 - Location plan received 01.06.2022;
 - Site plan received 25.04.2022.

2. The area of the premises to which this permission relates shall be open to customers only during the hours: 9am until 6pm Monday to Saturday and 10am until 4pm on Sundays and Bank Holidays.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the area of the premises to which this permission relates shall only be used for the retail sale of garden sundries ancillary to and in association with the main use of the site and for no other purpose.
4. Within 2 months of the date of this permission a scheme for biodiversity and ecological enhancement measures shall be installed/integrated into the development. The ecological enhancement measures shall thereafter be retained and maintained throughout the life of the development.
5. The onsite parking provision and manoeuvring areas shall be maintained and made available for their designated use throughout the lifetime of the development in accordance with revised application drawing – 22 878 REV A.