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## Appeal Decision

Site visit made on 12 February 2019

**by J Evans BA(Hons) AssocRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> May 2019**

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**Appeal Ref: APP/G3110/W/18/3217897**

**Land to The Rear Of 3 And 4 South Parade, Oxford OX2 7JL**

- 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 Mr Sajmir Faruku against the decision of Oxford City Council.
  - The application Ref 18/02146/FUL, dated 09 August 2018, was refused by notice dated 26 October 2018.
  - The development proposed is the change of use of car park to hand car wash.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr Sajmir Faruku against Oxford City Council. This application is subject of a separate Decision.

### Procedural Matters

3. The description on the planning application form refers to the appeal development as 'part retrospective', although no explanation has been provided to explain what component of the appeal development has not already commenced. At the time of my visit the car wash was in operation. Section 73A of the Town and Country Planning Act 1990 (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use rather than the retention of works or the continuation of a use. I have, therefore, omitted the words 'part retrospective' from the description of the development and have considered the appeal on the basis that it is for a change of use of the land to a hand car wash.
4. The description on the planning application form does not refer to a temporary use, however, the Planning and Heritage Statement submitted with the application, and the appellant's Appeal Statement suggests that this was the intention. There is also commentary on the basis that a temporary condition is an option to be considered as an alternative to a permanent use if it is seen necessary to impose such a condition to address a reason for refusal. I have assessed the appeal development as a permanent use, as a temporary use is not specifically included in the description, with the option of a temporary use condition if necessary.

5. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019. The revisions do not alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by the updates to this document.

### **Main Issues**

6. The main issues in this case are:
  - The effects of the development on the living conditions of the occupiers of nearby residential properties, with particular regard to noise and emissions.
  - Whether the appeal site is a suitable location for the development having regard to the provisions of the development plan.
  - The effects of the development upon highway safety, with particular regard to the effects on pedestrians.
  - The effects of the development on the character and appearance of the area and on non-designated heritage assets, with particular regard to 4 South Parade.

### **Reasons**

#### *Living conditions*

7. During my visit there was a lot of activity on South Parade with associated background noise. However, despite this and the buildings and enclosures around the appeal site I could hear noise emanating from the activities associated with the appeal development, namely the intermittent use of a pressure washer. Its tonal and stop start characteristic was particularly noticeable and distracting and from my walk around the area it was apparent that this noise would be heard by residents of nearby properties, such as those that exist along South Parade and Rogers Street.
8. Due to the nature of the use, this distinctive noise would reoccur throughout the day and, in my view, this would be particularly frustrating and annoying because of its intermittent and unpredictable occurrence. I would additionally expect that there is the potential for other noise generating activities normally associated with a hand car wash business, such as pressure washers, noise from workers and vehicular movements, that could add to the noise I could hear on my visit. Whilst the appellant has suggested that the activities at the site will be limited to daylight and typical office working hours, this would not resolve the concerns that were apparent during my site visit.
9. As no noise assessment was submitted as part of the appeal submissions, without this I have insufficient evidence to conclude contrary to what I experienced during my visit or to be satisfied that activities at the appeal site could appropriately and reasonably be controlled via conditions. On this basis I consider that the appeal development would have a detrimental effect upon the living conditions of the occupiers of nearby residential properties.
10. Whilst I note that the local planning authority made particular reference to the living conditions of the property 2A South Parade in their reason for refusal, and the information before me suggests that this property is not used for residential purposes, the reason also referred more broadly to nearby dwellings and it is on this basis I have assessed the concerns they have raised.

11. I am also aware that the local planning authority have referred to emissions in their reasons for refusal, but they have not substantiated this point in their statement of case. I do not consider that there is any evidence before me that would indicate a likelihood of adverse effects on living conditions in this regard.
12. To conclude on this main issue, I do not have sufficient evidence that addresses the concerns I experienced during my site visit with regard to the effects of the development through noise generating activity on the living conditions of nearby residential properties. As a consequence, the use of the appeal site as a hand car wash would result in harm to the living conditions of nearby occupiers. The appeal development as a result conflicts with saved policies CP1, CP10, CP19 and CP21 of the Oxford Local Plan 2001-2016 (OLP) and policy CS28 of the Oxford Core Strategy (CS) and paragraphs 127 f) and 180 a) of the Framework which require development to provide for a high standard of living conditions for existing and future occupiers and to prevent development from contributing to an unacceptable level of noise pollution.

*Whether the appeal site is a suitable location for the development*

13. Policy CP.6 of the OLP requires that development proposals must make the best use of site capacity, in a manner compatible with both the site itself and the surrounding area. This policy contains a range of criteria which, amongst other matters, requires that the intensity of development must be appropriate for the use proposed and the scale of development should be at least equivalent to the surrounding area. The supporting text to this policy highlights that there is general expectation of a greater intensity of development on sites with good local facilities and public transport accessibility, such as within the City and District centres.
14. Policy CS1 of the CS follows a similar emphasis stating that District centres, such as the Summertown area in which the appeal site is located, are suitable for retail, leisure, employment and other uses serving district-level needs and that with their immediate surroundings, are appropriate locations for medium to high-density development. The OLP and CS policies are broadly consistent with the requirements of the Framework.
15. The local planning authority have also referred to the emerging Oxford Local Plan 2016-2036 (eOXLP) in their statement of case. However, from the limited information before me in this regard, the eOXLP is not at an advanced stage of preparation and could be subject to representations and ultimately change. As a result, the eOXLP therefore carries little weight in the determination of the appeal and the appeal proposal cannot be considered as premature in relation to this emerging plan.
16. The appeal site relates to a small car park to the rear of 3 and 4 South Parade, both of which were vacant when I visited. The site is therefore not in use in association with these premises and the site location plan would suggest that these buildings are under separate ownership to the appellant. It is suggested that the occupation of these premises is unlikely in the short term, however there is an intention to progress a planning application for re-development in the not too distant future, with reference to a likely two year period. The appellant has also indicated that the land has been used informally in the recent past as overflow parking for neighbouring uses. Even if I had reasons to doubt this to be the case, which I do not, it is still fair to assume that the

appeal site could be described over the short term as under utilised land as per paragraph 118 of the Framework.

17. However, I do not consider the appeal development can be described as representing an efficient or best use of the appeal site's capacity or a greater intensity of development that adds to vitality of the district centre. As a result of the concerns I have already expressed with regard to the adverse effects the development would have on the living conditions of nearby residents, the development would also not be compatible with the surrounding area. It is also apparent from the appellants submissions that the appeal site could be integral to the re-development of 3 and 4 South Parade or the wider area in the near future.
18. The appellant states that the appeal proposal is being promoted as a temporary use. I accept that a temporary planning permission could have allowed for a short-term use of a vacant section of land whilst not prejudicing its more comprehensive redevelopment in the future. Nevertheless, a temporary use would not overcome the harm that I have found to the living conditions of neighbouring residents, which would persist for the duration of the use.
19. As a consequence, I conclude that the appeal site is not a suitable location for the development having regard to the provisions of the development plan. It would conflict with policy CP.6 of the OLP and policy CS1 of the CS.

*Highway safety*

20. Policy CP.10 of the OLP requires that access to development sites be practicable, with priority given to pedestrians and cyclists. Policy RC.11 of the OLP seeks to implement and promote measures to improve and make a safe and convenient pedestrian environment. The Framework explains that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety and also seeks to ensure that development gives priority first to pedestrian and cycle movements.
21. The appellant has outlined in their Appeal statement that around twenty vehicles would be washed at the site throughout the day. During the time I viewed the appeal site and its surroundings, I noted a number of vehicular movements in and out of the access onto South Parade all of which entered and left the appeal site in a forward gear. At the time the street was busy with regular pedestrian and vehicular activity in proximity to the appeal site entrance.
22. From the movements that I witnessed, alongside the ability for vehicles to turn within the appeal site and visibility available at the point where the site access meets the pedestrian footway and the highway, I am satisfied that the access arrangements would be safe and suitable, and the vehicle movements associated with the appeal development would not have an adverse effect on the pedestrian environment. I therefore conclude that the appeal development would not cause harm to highway safety and would align with Policy CP.10 and RC.11 of the OLP and paragraphs 109 and 110 of the Framework.

*Character and appearance of the area and the effect on non-designated heritage assets*

23. Policies CP1 and CP8 of the OLP and paragraph 127 of the Framework, collectively seek, amongst other matters, to ensure that new development is of a high standard of design and is sympathetic to local character and history.
24. Policy CS18 of the CS requires that development proposals should respect and draw inspiration from Oxford's unique historic environment responding positively to the character and distinctiveness of the locality.
25. Paragraph 184 of the Framework explains that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance.
26. From my observations of the local area there are a number of buildings fronting onto South Parade which have elements of historic value. Reference has been made by the local planning authority to the inclusion of 4, 5 and 6 South Parade on the Oxford Heritage Asset Register due to their historic interest as early examples of retail outlets and their contribution to the character and appearance of the street scene. I agree with the local planning authority that these buildings, particularly 4 and 5 South Parade contain attributes of non-designated heritage assets of local importance. 6 South Parade contains an unsympathetic ground floor flat roofed addition to the front elevation which has eroded some of its significance.
27. This is not particularly disputed by the appellant who makes the point that the appeal development is set to the rear of these properties and has no physical or visual connection with them. The appellant also outlines that the descriptions of heritage value contained in the Oxford Heritage Asset Register refer to the front elevations of the buildings and their contribution to South Parade.
28. I have not been provided with a copy of the Oxford Heritage Asset Register itself. However, from my visit to the area I agree with the points made by the appellant, the historic value of the non-designated heritage assets along South Parade relate to their front façades and their relationship with the street scene. This is of particular relevance to 4 South Parade for which the appeal site is located some distance behind.
29. Consequently, the appeal development has limited connection to the front elevations of heritage value. Whilst the appeal development maybe partially visible when passing the appeal site entrance from South Parade, this is a transient view set behind existing buildings and is not discordant with the broad range of activity found within the immediate area. I am therefore of the view that the appeal development will have an acceptable effect on character and appearance and will not result in any significant harm or loss to the non-designated heritage assets in the area in accordance with Policies CP1 and CP8 of the OLP and Policy CS18 of the CS.

**Other matters**

30. I have had regard to all other matters that have been raised by interested parties, including the convenience of the facilities and the employment benefits of the appeal development. Whilst I have taken these matters into

consideration, they do not materially change my conclusions on the appeal development as a whole.

### **Conclusion**

31. I have found that the appeal proposal would cause harm to the living conditions of the occupiers of nearby residential properties and that the appeal site is not a suitable location for the development. Although I have not found harm to the character and appearance of the area or to adjacent non-designated heritage assets, nor would the development prejudice highway safety, neither of these matters, either individually or collectively, would outweigh the other harm that I have found.
32. For the reasons given above, having regard to all matters raised, I conclude that the appeal should be dismissed.

*J Evans*

INSPECTOR