
Appeal Decision

Site visit made on 23 August 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/G5180/W/16/3150161

20 Southborough Road, Bickley, Bromley BR1 2EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Eddie Townson against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00447/RECON, dated 29 January 2016, was refused by notice dated 6 April 2016.
 - The application sought planning permission for change of use from Class A1 (Travel Agents) to Sui Generis (Private Hire/Taxi Booking Office) without complying with conditions attached to planning permission Ref DC/15/04663/FULL1, dated 29 December 2015.
 - The conditions in dispute are Nos. 3 and 4 which states that:
 - 3. The application premises shall be closed to drivers of vehicles associated with the permitted operation and those premises shall not provide rest or waiting facilities for those drivers; and
 - 4. The application premises shall not be open for the picking up of customers between 2300hours and 0600hours.
 - The reasons given for the conditions are:
 - 3. In order to protect the amenities of adjoining residents and to accord with Policy BE1 and S13 of the Unitary Development Plan.
 - 4. In order to protect the amenities of adjoining residents and to accord with Policy BE1 and S13 of the Unitary Development Plan.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from Class A1 (Travel Agents) to Sui Generis (Private Hire/Taxi Booking Office) at 20 Southborough Road, Bickley, Bromley BR1 2EB in accordance with the application Ref DC/16/00447/RECON, dated 29 January 2016, without compliance with Condition No 3 previously imposed on planning permission Ref DC/15/04663/FULL1, dated 29 December 2015 but subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.
 - 2) The application premises shall not be open for the picking up of customers between 2300hours and 0600hours.

Procedural Matters

2. The appellant has advised that he no longer wishes to pursue his appeal against the Council's decision to refuse to vary Condition 4. I shall therefore consider the appeal only in so far as it relates to the appellant's wish to vary Condition 3 to allow drivers of vehicles associated with the permitted operation to enter the premises for administrative purposes only.

Main Issue

3. The main issue in this case is whether Condition 3 is reasonable and necessary having regard to the effect of the proposal to allow drivers of vehicles associated with the permitted operation to enter the premises for administrative purposes only on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

4. The appeal premises are located at Bickley Station within the station building and fronting onto its forecourt and Southborough Road. There are a number of other commercial properties within the building, including an estate agents, florist and coffee shop. The forecourt provides parking for approximately 20 cars and a public car park lies adjacent to the site. The surrounding area is predominantly residential in character.
5. The premises are currently able to be open for the picking up of customers between 0600hours and 2300hours. However, drivers of vehicles associated with the business are prevented from accessing the building and not permitted to rest or wait within the premises. The appeal premises comprise a small reception/waiting area which is available for customers to book and wait for taxis. There is also a small office/control area within the building and a toilet and kitchen facilities. The appellant states that it is necessary for drivers to enter the premises for administrative purposes, to bring in or pick up documentation.
6. The station forecourt is available for parking with a waiting restriction of 30mins between 8.30am and 6.30pm. Drivers of vehicles associated with the business are currently able to wait in this area, subject to these limitations, to pick up customers from the appeal premises. There is nothing to prevent the drivers sitting in their cars, with or without their engines running, during these times or indeed leaving their cars to access facilities and services in the station and neighbouring commercial premises when open during the day. From the evidence I have before me it is difficult to see what additional noise or nuisance would come about from the drivers entering the appeal premises either for administration purposes, or to wait for customers and use the basic facilities available within the premises.
7. I have had regard to third party representations, and I accept that the appeal premises lies in a predominantly residential area where it is not unreasonable to expect lower noise levels during the late evening hours. It is evident that the existing operations do cause some disturbance during these times by reason of drivers waiting in their cars and outside on the station forecourt. It seems to me that if drivers were able to access the building and wait inside, they would be less likely to cause disturbance to neighbours through their activities outside. The nearest residential properties are located on the

opposite side of Southborough Road and are unlikely to be disturbed by noise generated from within the building. Furthermore, I have no substantive evidence before me that would indicate that by allowing the drivers to enter the building this would generate increased activity or vehicular movements in the local area. I understand that the premises may be operating outside the opening hours permitted by Condition 4; however this is not a matter for my consideration.

8. The National Planning Policy Framework (the Framework) advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects. I accept that a variation of Condition 3 to permit drivers to access the building for administration purposes would be unenforceable, as in practice it would not be possible to detect contravention. However, for the reasons given above I see no justification for the disputed condition to have been imposed. Condition 3 is not reasonable or necessary to protect the living conditions of nearby residents, with particular regard to noise and disturbance or to comply with Policies BE1 and S13 of the London Borough of Bromley Unitary Development Plan, 2006 which seek to protect, amongst other things, the amenities of the occupiers of neighbouring buildings and only permit taxi offices where there would be no adverse impact on residential amenity.

Conclusion

9. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed. The conditions previously imposed limiting opening hours and specifying the approved plans are necessary to protect the living conditions of neighbouring residents and to provide certainty. Given that the change of use has already taken place, there is no need for a commencement condition.

Elizabeth Pleasant

INSPECTOR