

Appeal Decision

Site visit made on 18 October 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 28th October 2016

Appeal Ref: APP/V4250/W/3156306

507 Bickershaw Lane, Bickershaw, Wigan, WN2 5TU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class J of the Town and Country (General Permitted Development) (England) Order 2015.
 - The appeal is made by Miss Michelle Halliwell against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/16/82608/PDJ1, dated 26 May 2016, was refused by notice dated 27 July 2016.
 - The development proposed is a change of use of ground floor to D2 assembly and leisure.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the Council's description of development as it is more succinct than the appellant's.

Main Issues

3. The main issues are the impact of the change of use upon (i) the living conditions of the occupiers of nearby dwellings with particular regard to noise and (ii) highway safety.

Reasons

Living Conditions

4. The premises used to be a shop. It is at the end of a terrace of houses and has a flat above. A dance school (Class D2 Assembly and Leisure), is likely to result in the generation of noise by the use of music, people congregating, and through the movement of dancing, especially tap dancing.
 5. I appreciate that the music would be played via a docking station but this does not mean that the music would be quiet. I note comments that when played via the docking system, the music could not be heard in the flat above. I also understand that there are fire boards and a false ceiling between the two floors but I have no technical evidence about the volume the music was played at. I also appreciate that the teacher's instructions need to be heard over the music but this is no guarantee that the music would not be turned up at other times. Whilst sound proofing might overcome the transmission of noise between properties, I have no detailed information of how this might work (such as
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sound measurements etc.). I also note comments about a sound limiter but I have no technical details of how this might work either. I appreciate that the use could be restricted by opening hours but such noise at any time would be unacceptable.

6. The Council has concerns about disturbance from people coming and going and from car parking, the availability of which is scarce. However, given the location of the site on a busy road and the fact that cars would be attracted by the former shop use, I do not consider that the dance school would generate so much coming and going and car parking demand as to materially harm the living conditions of neighbours. However, this does not overcome the harm from the activities within the building itself.
7. I understand that there have been no complaints from neighbours in relation to the current premises but as that is a community centre, the situation is different to that of the appeal proposal. I note that there have been no objections to the appeal proposal from neighbours but this is not a determinative factor. I also note the appellant's reference to the Broomfield Academy of Ballet which is also in a terraced property but the existence of that long established use does not make this proposal acceptable.
8. I therefore conclude that the proposed change of use would harm the living conditions of the occupiers of neighbouring dwellings. Consequently, it would conflict with Policies CP7 of the Wigan Council Local Plan Core Strategy, 2013, (CS) and Policies A1S and S1E of the Wigan Replacement Unitary Development Plan, 2006, (UDP) which, in combination, seek to protect residential amenity.

Highway Safety

9. There is no off street parking associated with the proposal. There are double yellow lines on both sides of the road outside the property and at my late morning visit I noted that there was very little free space for parking on nearby sections of highway. I appreciate that the proposed use might generate shorter bursts of more intense parking demand than a shop. However, in spite of these factors, the double yellow lines should prevent users of the premises parking in dangerous places and I have little technical evidence to convince me that the proposal would create a highway safety hazard.
10. I therefore conclude that the proposed use would not harm highway safety. I find no conflict with CS Policy CP7 or UDP Policy A1S which seeks to protect highway safety.

Other Matters

11. I have taken into account representations from interested parties. I appreciate that the current premises are unsuitable; that the proposed site would enable the appellant to increase her level of business; and that the proposal would provide a community facility for young people which would, in turn, make a contribution to better levels of health and fitness. However, these factors do not outweigh the harm I have found.

Conclusion

12. For the above reasons, the appeal is dismissed.

Siobhan Watson INSPECTOR