
Appeal Decision

Site visit made on 5 October 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 10 November 2016

Appeal Ref: APP/E2734/W/16/3153761

27 Cheltenham Crescent, Harrogate, North Yorkshire HG1 1DH

- 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 Kevin O'Boyle of Town Taxis against the decision of Harrogate Borough Council.
 - The application Ref 16/01088/COU, dated 17 March 2016, was refused by notice dated 27 June 2016.
 - The development proposed is use of premises as office for private hire vehicle and taxi operator.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are firstly, the effect of the proposal on the living conditions of nearby residents in terms of the potential for increased noise and disturbance; and secondly, the effect on highway safety.

Reasons

Living Conditions

3. The appeal premises, currently vacant, were last used as a hairdressing salon. They comprise the ground floor unit of a mid-terraced three-storey building fronting Cheltenham Crescent, a two-lane one-way route forming part of the A61 through the town centre. Neighbouring buildings have retail or restaurant uses at ground floor level and, as is the case at No 27, flats above.
 4. The proposal seeks to relocate an established operation formerly at 18a Kings Road nearby. The appeal premises would be used as an office for bookings and administration. In the periods between call-outs taxis would queue at one of the designated taxi ranks in the town. Taxi visits to the office would be to pick up customers who come to the premises to book a car.
 5. It is generally accepted that town centre locations such as the appeal site have higher levels of background noise than residential areas due to the different uses involved, some of which operate at night. So it is that town centre living often means accepting more intrusive activity from neighbouring uses. A taxi office open to the public with unrestricted hours of opening is however likely to result in concentrations of people at the premises, with the potential for causing increased noise and disturbance to local residents at unsocial hours.
-

6. Although I accept that customers would usually wait in the office until their taxi arrives, it is in my experience unlikely that increased activity outside the premises would be avoided, such as engines revving and doors slamming, especially at peak times in the evening and early hours of the morning when outlets in the area have closed. A possible alternative retail use for the premises is a hot food takeaway yet closing times can be imposed for such a use. To limit hours for the new use would be commercially restrictive and understandably no such limitation is offered by way of a suggested condition.
7. There is conflicting evidence about historic complaints of disturbance in Kings Road close to the company's former premises. I am unable to conclude that the disturbance was attributable to the appellant's taxi business save for the use of the loudspeaker used by the company in conjunction with employing a marshall to facilitate orderly and timely despatch of customers and taxis. These matters are often the province of the licensing regime for a private hire operator's licence; however I take into account that the appellant would accept a condition to prevent the use of speakers or other amplification.
8. No objections from residents of Cheltenham Crescent were received in reply to consultation on the application. Nevertheless, in my view local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting planning permission. I do however give weight to the area environmental health officer's statement in which she clearly sets out her concerns as to the increased noise likely to arise from the proposal, based on her knowledge and regular involvement with police and licensing officers in carrying out night time patrols of this central area and into the early morning.
9. From my observations of the area, I appreciate that the environment along this part of Cheltenham Crescent, populated with restaurant and wine bar uses, can be somewhat quieter later at night than where the taxi office was sited amid more diverse outlets along Kings Road that included hot food takeaways, bars and night clubs. The proposed use as a taxi office open to the public, in close proximity to residential premises, is in my view likely to cause adverse impacts. I am not persuaded from the evidence that those impacts would be sufficiently mitigated so as to effectively reduce the risk of significant additional noise or other disturbance to local residents at unsocial hours.
10. I saw that other taxi offices operate in the town centre. Some may be surrounded by more residential accommodation than the appeal site; however I have insufficient information as to the nature of their operation and do not regard their existence as a deciding factor in assessing the appeal proposal.
11. I conclude that the proposal would cause unacceptable harm to the living conditions of nearby residents by causing unacceptable additional noise and disturbance, contrary to Policy HD20 of the Harrogate District Local Plan 2001 (LP), and Policy SG4 of the Harrogate District Core Strategy Policy 2009 (CS). These policies aim to ensure that new development respects the amenity of nearby residents and occupiers of adjacent buildings. They are also in line with the National Planning Policy Framework, Paragraph 17 which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Highway safety

12. Although some customers would be picked up away from the appeal premises the business would accept walk-up bookings at the office where the taxis would

subsequently stop, remain stationary until they engorge with passengers and set off. No analysis of types of bookings is provided but clearly the proposed location would attract town centre customers directly to the office.

13. There are existing constraints to parking outside No 27. There is no taxi rank and parking is restricted on either side of Cheltenham Crescent by double yellow lines, a bus stop and pay and display spaces. The local highway authority objects to the proposal, citing the lack of free spaces outside the appeal premises that could result in customers being picked up using double parking. This is not as suggested a superficial matter, especially given that this is a busy main road through the town and that customers would have to walk between parked vehicles. Such manoeuvres, although they may be of short duration, would inhibit the free flow of traffic, unmitigated by any proposal to create a dedicated taxi rank, or to alter the existing bus stop or parking bays.
14. I conclude that in the absence of adequate on-site parking space the proposed development would be likely to result in vehicles being parked in the carriageway outside the appeal site to the detriment of the free flow of traffic and road safety contrary to CS Policy SG4. This policy seeks development to have due regard to its travel impacts and not to add significantly to any pre-existing problems of access, road safety or traffic flow.

Planning Balance

15. The difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. Termination of the tenancy of the premises at King Street was due to planned refurbishment and to remain in business the appellant has relocated to another property. However no details are supplied as to the condition or suitability of that property which, it is undisputed, has been occupied without the benefit of planning permission. This lack of information limits the weight I can give to the current individual circumstances of the appellant's business.
16. That said I recognise that the business employs 25 full-time and 5 part-time staff and is a long-established and successful local company. The proposed move would be a productive use for a vacant unit, support the business, and allow it to continue to offer a service to the public and benefit the local economy in accordance with CS Policies JB1 and JB2. I give this factor substantial weight.
17. I also acknowledge the value of a marshall service that would no doubt seek to reduce disorderly conduct as well as to minimise traffic congestion. There is nevertheless concern as to the potential harmful effect of the proposal by causing noise and disturbance to residents of the flats on Cheltenham Crescent close to the appeal premises. Although the proposal is to retain an existing business in its established general area rather than to introduce a new operation, I also have to consider specific effects in the immediate vicinity of the appeal site. I am not persuaded in this respect that the proposal would comply with CS Policy SG4 or LP Policy HD20.
18. Moreover I am satisfied that there would be a fundamental conflict with CS Policy SG4 in that the proposed change of use would result in vehicles parked in the carriageway outside the appeal site to the detriment of the free flow of traffic and road safety, a matter to which I give significant and substantial

weight. On balance the harm arising from these factors clearly outweighs the benefits of the proposal which would not overall be sustainable development.

Other matters

19. The appeal site is in the Harrogate Conservation Area. The Council considers that in terms of the impact on its heritage value the difference between the current use and the proposal would be minimal. I see no reason to disagree and find that the proposal would preserve the character and appearance of the conservation area.
20. The petition opposing the proposal has been considered. Apart from highway matters which have been taken into account I note the previous refusal in 2009 for a similar use on Cheltenham Crescent. Circumstances will have changed since then such that the refusal is not a compelling precedent here. Equally, the number of existing taxi services in the area is not a matter on which I have been made aware of any specific planning policy, so I have not treated it as a relevant factor.

Conclusion

21. For the above reasons and having given careful consideration to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR