
Appeal Decision

Site visit made on 17 October 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 28 November 2016

Appeal Ref: APP/W4705/W/16/3153482

346 Great Horton Road, Bradford, West Yorkshire BD7 1QJ

- 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 Mahmoods Ltd against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 15/05843/FUL, dated 22 October 2015, was refused by notice dated 2 June 2016.
 - The development proposed is a 2-storey side extension, Dormer Window, New Aluminium Shop Frontage, Cladding & Internal Alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) the living conditions of the neighbouring occupiers at 4 St Margaret's Road, with particular regard to noise; and
 - (ii) highway safety, with particular regard to off-street parking.

Reasons

3. I am mindful of the fact that the site has been the subject of a previous refusal for planning permission¹. Furthermore I note that the appellant has aimed to address the issues for refusal within their subsequent planning application, which is the subject of this appeal.

Living Conditions

4. The appeal site is located within Horton Grange local centre and from my site visit I noted that the area was characterised by a mix of residential dwellings and commercial and retail units. As such, I would expect that the area is considerably busier and noisier than a predominately residential locality.
5. Policies D1, P7 and UR3 of the Replacement Unitary Development Plan for the Bradford District 2005 (the UDP) indicate that, amongst other things, development should not have an adverse effect on neighbouring occupiers.

¹ Council reference 15/03692/FUL

Furthermore, where the proposal results in noise problems developers will be required to undertake remedial works to overcome the identified issues.

6. From the evidence submitted by the Council, I note that following the initial planning refusal the appellant has made a number of amendments to the scheme. Two of these amendments include the relocation of the internal staircase and also the introduction of soundproofing to the party wall. Nevertheless even with the amendments in place, as the proposed seating area could accommodate up to sixteen customers I consider that a considerable level of disturbance would still be experienced from factors such as customers walking up and down stairs, conversations and use of mobile phones.
7. As such, given the proximity of the neighbouring dwelling to the proposed seating area, noise and disturbance arising from its use would be likely to be audible within the neighbouring dwelling. Whilst this would not be necessarily be unacceptable during the daytime, the level of noise and disturbance associated with a late-opening hot food takeaway, which would be likely to generate frequent visits throughout the evening period, would be unacceptably intrusive to occupants of the dwelling. Whilst I note that the appellant contends that the dwelling has been vacant for many years, I have no evidence before me to confirm this. Moreover, I am required to give consideration to any future occupiers of the dwelling.
8. I therefore consider that the resulting noise from the seating area would unacceptably harm the living conditions of neighbouring occupiers at 4 St Margaret's Road, contrary to the protection of residential amenity objectives of Policies D1, P7 and UR3 of the UDP.

Highway Safety

9. The appeal site is located on Great Horton Road, which is a relatively busy main road and a bus stop is located outside the site. As with many of the other units located on Great Horton Road, the unit does not provide any off-street car parking.
10. However, safe and unrestricted parking spaces are available nearby on St Margaret's Road and also on Great Horton Road, within a short walking distance of the appeal site. Due to the presence of the bus stop, no parking is available directly outside and there are double yellow lines on the corner of Great Horton Road and St Margaret's Road to prevent parking near and on the junction.
11. I appreciate that the nearby on-street car parking spaces will be well used, given the mix of both residential dwellings and commercial and retail units. I also accept that hot food takeaways generally rely on a regular turnover of 'short-stay' customers arriving by car and that a peak time for business could coincide with peak traffic flows in the evening rush hour, which is often between 1700 and 1900.
12. I have taken into account the presence of other restaurants in proximity to the site which may have similar opening hours and parking requirements. I also note the concern of the Council in respect of existing local parking pressures, although no substantive evidence has been provided with regard to this matter.

13. I further acknowledge that a planning application at 342 Great Horton Road² for an extension to form a dessert lounge was refused on the grounds that there was insufficient off-street parking, despite the site having a number of on-site parking spaces. I have no detailed evidence before me regarding this application, however I would expect that users of the proposed dessert lounge would require parking for a considerably greater length of time than those picking up a takeaway. Whilst I have noted both the similarities and distinctions with this application, and being mindful of the importance of consistency in decision-making, each decision ultimately reflects the particular planning circumstances appropriate to that case. Accordingly, the conclusions I have reached are based upon the case-specific considerations relevant to this appeal proposal as described.
14. Taking into consideration the lack of objection from the Council Highway section, and from my own observations on site, I am satisfied that sufficient on-street parking is available along both Great Horton Road and St Margaret's Road to safely accommodate the level of parking which is likely to arise from the proposed use. Consequently, I can see no reason why customers would be likely to park on the double yellow lines, at the bus stop or inconsiderately elsewhere.
15. I note the concerns raised by the police in relation to the previous application on the appeal site in relation to parking pressures. Nevertheless, I have no evidence before me to indicate that the parking pressures have resulted in any accidents. Consequently it is unlikely that the proposal would cause highway safety problems. Nor, taking into account the potential level and nature of vehicle movements and the arrangements of available parking spaces, is it likely that there would be any materially adverse effect on the free flow of traffic.
16. Taking the above matters into consideration, I find that the proposal would not have an adverse impact on the safety of road users or the efficient operation of the highway network in the vicinity of the site. It would therefore not conflict, with Policies D1, TM11, TM19A and UR3 of the UDP, which seek, amongst other things, to ensure that new development provides for safe urban streets and does not harm residential amenity.

Other Matters

17. The concern raised by the appellant regarding the length of time taken by the Council to determine the application is acknowledged. However, this is a procedural issue which does not concern the planning merits of the case. Accordingly, I have not attached any weight to this matter.

Conclusion

18. I have not found harm in respect of highway safety, with particular regard to off-street parking. However, the harm to living conditions of the neighbouring occupiers at 4 St Margaret's Road, in respect of noise, is decisive.
19. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

² Council reference 16/00945/FUL

Helen Cassini

INSPECTOR