
Appeal Decision

Site visit made on 22 November 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 2 December 2016

Appeal Ref: APP/M4320/W/16/3155593

127, Forefield Lane, Crosby, Liverpool L23 9SL

- 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 Ibrahim Bilir against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2016/00499, dated 3 March 2016, was refused by notice dated 24 May 2016.
 - The development proposed is change of use to a hot food takeaway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have adopted the description of development set out in the Council's decision notice and the appeal form rather than that given in the original application as this provides a clearer description of what is proposed.
3. Although given the opportunity to do so the appellant has not submitted any detailed grounds of appeal or statement of case.

Main Issues

4. The main issues are the effect on the living conditions of the occupiers of nearby residential properties with regard to noise, disturbance, visual amenity and odour.

Reasons

5. With proposed trading hours until 22.00 on Mondays to Fridays and until 23.00 on Saturdays, Sundays and Bank Holidays, the proposed change of use would result in a different pattern of trading from that of the current use of the appeal property as a newsagents/ office licence and general store. It is not unreasonable to expect that its busiest periods are likely to be in the evenings when many of the other units in the shopping parade have closed for business.
 6. Although there is already one hot food takeaway in the parade, the appeal property's location at the end of the parade places it immediately adjacent to a residential property at number 125 Forefield Lane. Its front elevation is almost in line with that of the front corner projection to that house and only a low boundary wall separates the driveway of No 125 from the parking forecourt in front of the appeal property.
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7. The proposed use would result in significant noise from the manoeuvring of cars into and out of the parking spaces, slamming of car doors and revving of engines, and the general chatter of customers as they enter and leave the premises. The slightly sheltered, corner location of the appeal property also means that the footway and forecourt immediately to the front of the premises would likely be used as a place for people to congregate when eating their food or waiting for friends to come out of the takeaway. Due to the close proximity of the front living room and bedroom windows in the adjacent house, noise generated by those activities would have a significant adverse effect on the occupiers of that dwelling. That noise and disturbance would be likely to be at its greatest in the mid to late evening when traffic and other background noise is lower than in the daytime and when those residents might reasonably expect to enjoy their home with a minimal level of extraneous noise.
8. The appellant's intentions as to the use of the first floor of the premises are unclear. If it was to be used for residential accommodation, the occupiers of that accommodation would be adversely affected by noise and disturbance from the proposed hot food takeaway due to the close proximity of the dormer window to the shop doorway, access and parking area. Some adverse effects would also be likely to be experienced by residential occupiers of first floor flats above any of the other shop units in the parade, particularly from the comings and goings of vehicles along the front service road.
9. The proposed use could potentially result in occupiers of residential accommodation above or in close proximity to the appeal premises being disturbed by cooking odours but I see no reason why this risk could not be minimised by means of a suitable extraction system. However, the size and location of the extraction flue as proposed would be unacceptable. Although unsightly, the flue would not be seen from any public vantage points but would have a significant adverse effect on the outlook from the principal first floor window in the rear elevation of the property; that effect would harm the living conditions of any residential occupiers of that accommodation.
10. Some of the local objections raise concerns about problems of litter in the area around the shopping parade and I saw clear evidence of food and drink cartons on the nearby pavements and in the front garden to No 125 on my site visit. The proposed change of use would be likely to exacerbate that existing problem with some resultant harm to local amenity.
11. For these reasons I conclude that the appeal proposal would harm the living conditions of the occupiers of Number 125 Forefield Lane and of first floor residential accommodation within the shopping parade by reason of noise and disturbance; it would also harm the outlook from any existing or proposed living accommodation above the appeal premises themselves. In addition, the proposal would also be likely to add to existing problems of litter in the area surrounding the appeal site.
12. The proposal would conflict with saved Policy MD6 of the Sefton Unitary Development Plan 2006 (UDP) which supports proposals for food and drink uses provided that they would not cause significant harm to residential amenity, particularly where they are located in areas designated as Primarily Residential Areas, such as that around the appeal site. It would also conflict with saved UDP Policy H10, which states that non-residential development will be permitted in Primarily Residential Areas provided it will not have an

unacceptable impact on residential amenity. The proposal would be contrary to UDP Policy CS3, which sets out general principles for all development proposals including that they should not cause significant harm to amenity, and DQ1 which requires that proposals be designed such that they protect the amenity of those within and adjacent to the site. The Council alleges conflict with Policy HC3 of the emerging Sefton Local Plan but, as that plan has not yet been adopted, less weight can be attached to its policies.

Conclusion

13. For the reasons set out above I conclude that the appeal should fail.

Paul Singleton

INSPECTOR