The Planning Inspectorate

Appeal Decision

Site visit made on 19 December 2016

by Helen Hockenhull BA(Hons) B.Pl MRTPI

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

Decision date: 12 January 2017

Appeal Ref: APP/C2708/W/16/3154822
Unit F, Airedale Trading Park, Skipton Road, Cross Hills, Keighley, BD20 7DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Michael Gridley against the decision of Craven District Council.
- The application Ref 32/2016/16879, dated 20 April 2016, was approved on 7 July 2016 and planning permission was granted subject to conditions.
- The development permitted is the variation of Condition No.5 of previously approved application (32/2014/15202) to amend opening hours.
- The condition in dispute is No. 5 which states that: *The use hereby permitted shall not be open to customers except between the hours of:*
  09:00 HRS to 21:00 HRS Monday – Friday,
  10:00 HRS to 14:00 HRS on Saturdays,
  10:00 HRS to 16:00 HRS Sundays.
  The premises shall not open at any time Bank or Public Holidays.
- The reason given for the condition is: *To safeguard the amenities of the occupiers of nearby properties.*

Decision

1. The appeal is allowed and the planning permission Ref 32/2016/16879 for the variation of condition no.5 of previously approved application (32/2014/15202) at Unit F, Airedale Trading Park, Skipton Road, Cross Hills, Keighley, BD20 7DS granted on 7 July 2016 by Craven District Council, is varied by deleting condition 5 and substituting it for the following condition:

   5) The use hereby permitted shall not be open to customers except between the hours of:

   - 06:00 HRS to 21:00 HRS Monday – Friday
   - 10:00 HRS to 14:00 HRS on Saturdays,
   - 10:00 HRS to 16:00 HRS Sundays.

   The premises shall not open at any time Bank or Public Holidays.

Procedural Matter

2. In the Council's Decision Notice Condition 5 states that 'The use hereby permitted shall not be open to customers except between the house of…..' This would appear to be a typographical error and should read 'hours of'. I have used this alternative wording in my banner heading in the interests of clarity.

Background and Main Issue

3. In December 2014 planning permission was granted for the change of use of the first floor of the appeal building to a Martial Arts/Gym. This permission included a condition restricting the hours of opening to 9am to 9pm Monday to Friday and no opening on a Sunday. The appellant sought to vary this condition to allow opening Monday to Friday from 6am instead of 9am and opening on a Sunday from 10am to 4 pm. The Council varied the condition in respect of the Sunday opening but not the earlier opening time in the week. This appeal seeks the variation of this condition to allow the earlier weekday opening.

4. I consider that the main issue is whether the condition is necessary and reasonable in the interests of protecting the living conditions of the occupants of neighbouring residential properties with particular regard to noise.

Reasons

5. The appeal building forms a stone built former mill located within Airedale Trading Park. The first floor is occupied by the Gym and the ground floor by a carpet retailer. The site is bordered by the railway line to the south and the A6068 Skipton Road to the west. Residential properties lie to the south east, the closest being approximately 10 metres from the appeal building.

6. I observed on my site visit that the established industrial area includes a range of uses including car sales, repairs and manufacturing. The A6068 forms a busy arterial road running between Keighley and Skipton and the railway line carries a significant number of both passenger and freight trains. Cumulatively this results in the area generally having a reasonably high level of activity and background noise during the working day. The position of the level crossing close to the appeal site results in standing vehicles and transport noise which adds to the overall background noise. I accept that these noise levels would be lower in the early morning when the appellant wishes to open but levels would start to increase certainly before the current approved opening time of 9am.

7. I note that the door to the Gym is located on the southern elevation of the building furthest away from the neighbouring residential properties and cannot be viewed from habitable room windows. Car parking for the Gym appears to be available in a number of locations including the southern elevation of the building adjacent to the railway line, elsewhere within the industrial estate and also to the eastern elevation of the building close to the neighbouring residential properties. I accept that car parking in this latter location in the early morning has the potential to increase noise and disturbance for the occupiers of neighbouring properties and car headlights could shine into windows. However I consider it most likely that the potential number of users of the Gym in the early morning would be low and that they would tend to park in the area closest to the door which would be furthest away from the residential properties. I therefore consider that the increase in noise and disturbance affecting the nearby residential occupiers would be minimal.

8. I noted on my site visit that music is played inside the premises during opening times however this was not audible outside the building. This would therefore have no impact on external noise should opening hours be increased.

9. In summary having regard to the existing levels of background noise in the area, the position of the entrance to the premises and availability of car parking away from residential properties, I consider that the condition the subject of the appeal is not necessary or reasonable to protect the living conditions of the occupiers of neighbouring residential properties.

10. For the reasons given above I conclude that the appeal should succeed. I therefore vary the planning permission by deleting the disputed condition and substituting it for an amended Condition no. 5 as stated in my decision.

Helen Hockenhull

INSPECTOR