
Appeal Decision

Site visit made on 20 December 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/J4525/W/16/3159524
47 Cockermouth Road, Sunderland SR5 3LU

- 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 F Moraldi against the decision of Sunderland City Council.
 - The application Ref 16/01064/FU4, dated 16 June 2016, was refused by notice dated 7 September 2016.
 - The development proposed is change of use from A1 retail to A5 hot foot takeaway and erection of associated extraction flue.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

3. The appeal site is part of a small shopping parade within an extensive residential estate. The parade consists of the appeal site itself, which is a vacant shop unit with residential flat above, an adjacent hot food takeaway and convenience store next to that. A parking bay for a small number of vehicles is situated to the front of the parade.
 4. The Council's development plan acknowledges that hot food takeaways can result in disturbance to nearby local residents due to the nature of associated activity and hours of operation. Guidance within the Council's Development Control Guidelines Supplementary Planning Guidance 2000 (SPG) states that hot food takeaway uses in smaller shopping parades will not normally be permitted within 50 metres of the principal elevation of a residential dwelling. It is undisputed by the parties that residential dwellings are located well within this threshold.
 5. The proposed use would operate into the late evening and would result in noise associated with frequent movements of customer and delivery vehicles, including engines being started and revved and car doors slamming. Limited space outside the appeal site would lead to a degree of parking directly outside residential properties. Whilst not all customers would arrive by car, many would do so to ensure that food could be taken home as soon as possible. Whilst there is scope for vehicle parking to the rear of the premises, this area
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- would still be very close to residential property. It is also likely that groups of customers would congregate outside the premises, consuming or awaiting the preparation of food. This would inevitably result in some conversations and interactions between people with raised voices and laughter.
6. Whilst these sources of noise would not be constant, they would occur frequently and unpredictably. They would be audible to residents of the adjoining first floor flat and nearby dwellings in close proximity to the appeal site, within Cockermouth Road and Conway Road resulting in significant disturbance to those residents. Although the appellant has submitted survey information suggesting that a majority of trade would take place between 7pm and 9pm, the source of this survey information has not been made clear and in any event, these are still times when residents might reasonably expect to enjoy the peace and quiet of their homes.
 7. Because of the existence of the adjacent hot food takeaway, the appellant argues that the proposal would not worsen the living conditions for nearby residents. Rather, they consider that it would provide more customer choice as opposed generating additional noise and disturbance.
 8. I acknowledge that the existing adjacent business is already likely to result in a degree of disturbance, and because of the position of the site within a residential estate would not tend to attract significant through traffic and therefore passing trade. However, whilst the proposal would inevitably attract some customers who would have otherwise used the adjacent takeaway and as such contributed to potential disturbance in any event, it is reasonable to expect that this would not be the only takeaway used by local residents at the present time. Accordingly the proposal would be expected to draw additional trade into the locality and in so doing would exacerbate any existing noise and disturbance issues.
 9. I acknowledge that the fallback position of a retail use being recommenced at the site would potentially lead to some disturbance issues from the comings and goings of customers. However, because the nature of the proposed business is focussed on more noise sensitive times of the day, during the late afternoon and evening, a hot food takeaway would be more likely than a shop to result in noise and disturbance related problems.
 10. The appellant has referred to Cockermouth Road already being a busy and noisy street. However, given its residential location, significant quantities of through traffic would not be expected to pass the site. During my visit I did observe relatively high levels of background noise in the vicinity of the site. However the source of this noise was the relatively high volume and speed of traffic using the nearby A19 road. The level of such road traffic noise would be reasonably expected to fall significantly during the later evening.
 11. I appreciate that the proposal would bring a unit back into use that has been vacant for some time, would result in some benefits to the local economy including the creation of a small number of jobs and would provide greater customer choice. However other units in the parade remain operational and the building as a whole does not appear to be at risk of dereliction or long term environmental decline. Therefore on balance, the limited benefits that would accrue, would not outweigh the harm I have identified above.

12. The appellant has referred to a recent change of use permission including hot food takeaway at the nearby former Cauld Lad public house. Whilst I have limited information in relation that case, it appears that the circumstances there differ to the current proposal. In particular that case involved a public house which would reasonably be expected to have generated similar patterns of activity into the late evening.
13. I conclude that the development would result in harm to the living conditions of nearby residents with particular regard to noise and disturbance. It would therefore be in conflict with Saved Policies B2 and S12 of the City of Sunderland Unitary Development Plan 1998, the SPG and the National Planning Policy Framework insofar as they seek to protect the living conditions of existing residents.

Conclusion

14. For the aforementioned reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Roy Merrett

INSPECTOR