
Appeal Decision

Site visit made on 4 January 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 03 February 2017

Appeal Ref: APP/Z3635/W/16/3158714

81 Garrick Close, Staines-upon-Thames, Surrey TW18 2PH

- 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 Mrs Rajminder Kaur against the decision of Spelthorne Borough Council.
 - The application Ref 16/00460/FUL, dated 22 March 2016, was refused by notice dated 28 June 2016.
 - The development proposed is change of use from retail to A5 takeaway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Third party representations have raised concerns in relation to on-street parking demand and the effect of the development on traffic volume in Garrick Close. Insofar as parking issues associated with the development could be related to noise and disturbance, I have referred to parking concerns in my consideration of the main issues.

Main Issues

3. The main issues are the effect of the development on:
 - the living conditions of occupiers of nearby dwellings, with particular regard to noise and disturbance, and odours; and,
 - the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is the ground floor premises of a small commercial precinct with retail outlets at ground floor level, and residential accommodation above. The precinct forms the corner of Garrick Close, which is a cul de sac of modern flatted and terraced dwellings, and Wheatsheaf Lane which is lined on both sides by residential development. The precinct contains a dry cleaners, a small supermarket, a hairdresser and a pharmacy. The service yard behind the precinct screens refuse storage areas and existing extractor and fan units from public view.
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5. The development comprises the conversion of the former shop unit (Class A1) to a hot-food takeaway (Class A5).
6. The Council has raised concerns in relation to the noise, odours and disturbance likely to be associated with the processes involved as well as the comings and goings of customers. In respect of noise and disturbance associated with vehicle movements, I noted on my visit that Wheatsheaf Lane has a quieter and more residential character than Staines town centre, and although there was parking outside the shops, there appeared to be little activity associated with those parked cars which leads me to conclude that the dedicated shop parking is not necessary used by customers. Furthermore, there were few on-street parking spaces on Garrick Close and many parked cars had mounted the footway in order to enable the free movement of traffic. These observations led me to conclude that parking spaces are at a premium during the day, and are likely to be in even more short supply at evenings and weekends.
7. As such, I consider it very likely that future customers of the takeaway would use Garrick Close for parking and turning. The fact that the appellant argues that vehicles would not be parked for a significant period of time reinforces my concern that the development would generate a noticeable increase in traffic and associated noise, as the viability of the development would depend upon a consistent volume of business.
8. Consequently, given the limited availability of on-street parking and the fact that Garrick Close is a cul de sac, I share the Council's concern that the comings and goings of people, whether on foot or in vehicles, until 11pm at night, would generate a consistent and increased level of noise in what is a predominantly residential environment.
9. The appellant argues that the appeal site has a number of parking spaces allocated to it. However, there is no further information to identify where these spaces are and there was nothing apparent on site to indicate that shop parking is for customers only. As such, I am not satisfied that the development would have allocated parking sufficient to accommodate its customers. Nor do I agree that a large proportion of customers would necessarily walk to the takeaway, even if they were local. Furthermore, whilst I appreciate that the highways authority raised no objections in respect of highway safety, this does not necessarily indicate that traffic associated with the development would not cause increased noise and disturbance.
10. The appellant argues that the development would not generate noise levels higher than those that already exist, but there is no supporting evidence to support this assertion. In addition, although the development would require extraction and odour neutralisation equipment, no associated noise assessment data has been provided so I am unable to conclude on this point.
11. The Council has suggested that the extraction equipment proposed would be insufficient to deal adequately with the odours and air flow associated with the cooking equipment and on the basis of the evidence before me, I see no reason to disagree with that view. However, were the appeal to be allowed, a condition could be imposed to ensure that the equipment installed was appropriate to mitigate noise and pollution so I give this argument limited weight.

12. The appellant has drawn my attention to previous appeals for hot-food takeaways. Notwithstanding that they are all within different council areas with different policies, each has significant differences from this appeal. Whilst I acknowledge that surrounding residential land uses do not necessarily preclude takeaway uses, the appeal site at Nunnery Lane, Luton¹ is adjacent to a busy signal controlled crossroads and two of the other corner sites house a filling station and a Tesco Local. Consequently, the capacity of the immediate area to accommodate a takeaway would be different from that of the appeal before me which appears to have low levels of commercial use and activity.
13. The appeal at Kilnwick Road, Pocklington² was also located within a residential area, but although the Inspector allowed the appeal, a condition was imposed to restrict opening hours to mitigate late night disturbance. This reinforces my concern in relation to the potential for late night disturbance for this appeal.
14. The appeal at Tudor Road, Luton³ did not find harm in respect of on-street parking demand, but there is insufficient information before me to assess the underlying demand or ascertain whether or not this was considered an issue. Furthermore, the evidence before me indicates that that site was on a through road which is not the case for this appeal where I consider it likely that the cul de sac would be used for parking and turning which would increase vehicle movements and associated noise. Consequently, I give these previous appeals limited weight and in any case, each appeal is determined on its own merits.
15. I acknowledge that some of the existing businesses in the precinct have extraction equipment. However, I was not aware of noise from this equipment when I was on Garrick Close. Furthermore, as I have noted above, in the absence of technical data to confirm that the noise from the proposed extraction equipment would be acceptable, I am unable to conclude that the development would not add to the ambient noise.
16. In the light of the above, I consider the development would generate noise and disturbance for occupiers of neighbouring dwellings which would be detrimental to their living conditions. This would be contrary to Policy EN11 of the Local Plan⁴ (LP) which requires appropriate noise mitigation where this can overcome unacceptable impacts on residential development. It would also fail to meet the provisions of Paragraph 17 of the National Planning Policy Framework which requires development to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Character and appearance

17. The ducting for the extractor equipment required for the cooking processes would be mounted on the flank wall of the precinct. This, with the exception of one modest satellite dish or aerial, is free of other equipment. The drawings show the ducting would be some 4.8 metres in length and would project above eaves height by about 1.5 metres. This would be prominent given the wall is largely free of other mounted equipment.
18. I noted on my visit that other premises in the precinct have extractor fans and ducting, but these are mounted in the service yard which is screened from

¹ APP/B0230/W/14/3000015

² APP/E2001/A/11/2152252

³ APP/B0230/A/12125278

⁴ Spelthorne Borough Council, Core Strategy and Development Plan Document, adopted February 2009

public view and therefore ensures the adjacent land retains a residential character. They are also lower than the level of the parapet serving the accommodation above.

19. The appellant has drawn attention to an appeal⁵ where the Inspector concluded that as there was significant clutter attached to the building, the extractor ducting would not have a materially detrimental effect. However, as I have noted, in this case the flank wall of the development is largely free from other clutter. As such I give this argument little weight.
20. The Council has reviewed the technical data supplied in relation to the extraction equipment and has concluded that both the length and section of ducting, as well as the filter unit, would need to be significantly larger and longer than shown on the drawings. I see no reason to disagree with the Council in this respect. However, were the appeal to be allowed, conditions could be imposed to ensure the ducting was approved before commencement of the development.
21. In the light of the above, I conclude that the development would be visually incongruous and obtrusive in appearance as the ducting would be prominent on a wall otherwise almost devoid of other equipment. The flank wall of the precinct also faces residential development. This would be contrary to LP Policy EN1 which states that development should respect and make a positive contribution to the street scene and the character of the area in which it is situated.

Other matters

22. Interested parties have raised other concerns but as I have found harm in relation to the main issues it is not necessary for me to consider these concerns further.

Conclusion

23. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR

⁵ APP/E2001/A/11/2152252