
Appeal Decision

Site visit made on 24 January 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 16 February 2017

Appeal Ref: APP/Z4718/W/16/3163276

**Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury
WF13 3ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ashiq Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/70/93293/E, dated 13 October 2015, was refused by notice dated 15 July 2016.
 - The application sought planning permission for '*erection of extension (modified proposal)*' without complying with a condition attached to planning permission Ref 2012/62/90468/E, dated 30 July 2012.
 - The condition in dispute is No 6 which states that: '*The use hereby permitted shall not be open to customers outside the hours of 1200 to 1600 on Saturdays, Sundays and Bank Holidays with no opening to customers Monday to Friday*'.
 - The reason given for the condition is: '*To accord with the terms of the application and in the interests of residential amenity and highway safety, in accordance with Policies D2, B5 and T10 of the Unitary Development Plan*'.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The appeal follows the granting of planning permission Ref: 2012/62/90468/E, dated 30 July 2012, and relates to the subsequent application to vary an attached Condition with regard to opening hours. The Council refused the subsequent application Ref: 2015/70/93293/E on 15 July 2016 on the grounds that varying the relevant Condition would result in material harm to the living conditions of neighbouring occupiers in terms of noise, disturbance and highway safety. An appeal was lodged against that decision. This appeal therefore seeks the variation of the Condition to extend the opening hours of the appeal premises, as specified.
 3. I understand that the proposed variation in opening hours is already being operated at the appeal premises. I did not see evidence of this during the site visit. However, I have noted that this has been raised in evidence by the Council and interested parties and that the Council state that the application was made retrospectively. As such, I have had due regard to this in my consideration of the proposed variation to the Condition. It is against this background and on this basis that I have determined the appeal.
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Main Issues

4. The main issues are the effect of the proposal variation of Condition No 6 on:
- the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and
 - the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

5. The appeal property is a former Working Men's Club (WMC) situated to the rear of existing dwellings which front on to the busy Huddersfield Road. The site originally comprised of the WMC building and an associated bowling green. Since that time, the site now operates as The Grand Banqueting Suite and is a large venue for functions and weddings. The building has been substantially extended with undercroft parking beneath. The site is accessed by a lane from Huddersfield Road. The access serves as the only entry and exit for the site and is positioned adjacent to a terrace of dwellings. Furthermore, the access is opposite the junction between Huddersfield Road and Spen Valley Road.

Living conditions: noise and disturbance

6. From what I have seen and read, I note that although unauthorised, the proposed opening hours have already been in operation at the appeal site. As a result, several issues have been raised by local occupiers and the Council relating to adverse effects on the living conditions of neighbouring residents. These include excessive noise and disturbance from vehicles including the revving of engines, horns beeping and private residential parking spaces being used by customers of the appeal premises without permission.
7. The site currently has approximately 100 parking spaces configured around a one way circulatory system. Furthermore, the venue can cater for up to 1400 people attending events. In these circumstances the amount of available parking on site would be substantially inadequate to cater for visitors. From the evidence before me, this would result in traffic congestion, noise and disturbance in and around the site. Due to the amount of traffic generated by the appeal property during events, I find that the proposed variation to the Condition would only increase the regularity of these events and extend the period of potential noise and disturbance for nearby occupiers.
8. Whilst I note the appellant's point that visitors would arrive and leave only once, having events ending at 2300 hours as proposed rather than at 1600 hours would simply have the effect of transferring the noise and disturbance issues to a later time in the evening for nearby occupiers. Furthermore, I find that extending the opening hours as proposed would only increase the frequency of the noise and disturbance and exacerbate the harmful impacts currently experienced by neighbouring occupiers. As such, I find that this would have a significant adverse impact on living conditions.
9. I appreciate that there would be economic benefits associated with this proposal. However, from the evidence before me, I have seen nothing substantive to suggest that any such benefits would outweigh the significant harm I have identified.

10. Consequently, I conclude that the proposal would have a detrimental effect on the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to Policy D2 of the Kirklees Unitary Development Plan (UDP). Amongst other matters, this policy seeks to ensure that development has no materially detrimental effect on the amenity of local residents and occupiers in terms of noise and disturbance.

Highway network: safety and efficiency

11. The Council states that it only recently became aware of the extent to which the seating capacity of the appeal premises had increased and that this far exceeded the envisaged 40% increase on the former use considered under the previous approved planning application. Therefore, even with a potential increase of car parking spaces on site, it is likely that a significant proportion of the relatively large number of customers would have to park off site and on nearby side streets.
12. Notwithstanding the appellant's points on the frequency and timing of traffic arriving at and leaving the site, I find that it is the volume of traffic and the overspill onto nearby side streets which would have a detrimental effect on the efficiency and safe operation of the local highway network. The potential to cater for up to 1400 people would inevitably lead to a shortage of available off street parking, even at times where the venue is not at full seating capacity. As a result, I find it reasonable to consider that in many cases where an event is taking place, the adverse impact on parking and the highway network would be significant.
13. I acknowledge that the proposed variation of opening hours would potentially move the volume of traffic related to the appeal premises away from the afternoon peak period. However, this would not necessarily always be the case. Due to the nature of the venue and its current use, I find that it to be entirely possible for customers to be arriving at or leaving the site during the busy afternoon peak period, depending on the particular event.
14. The traffic management and mitigation measures identified by the appellant, including traffic marshalling on site at busy times and the availability of overflow parking on an adjacent site, would have some beneficial effect with regard to traffic flow. However, in my view, these would not be sufficient to outweigh the harmful impact on the local highway network and would not effectively deal with the impact on traffic congestion and parking in the locality.
15. Consequently, I conclude that the proposal would have a significantly harmful effect on the safe and efficient operation of the highway network in the surrounding area of the appeal site. Therefore, it would be contrary to Policy T10 of the UDP. Amongst other matters, this policy seeks to ensure that development has no adverse impact on highway safety and efficiency.

Conclusion

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

Andrew McCormack

INSPECTOR