
Appeal Decision

Site visit made on 27 March 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 13 April 2017

Appeal Ref: APP/L3625/W/16/3161486

4 Tattenham Way, Burgh Heath, Tadworth, Surrey KT20 5NG

- 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 Sahin Inalpolat against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/01138/S73, was refused by notice dated 19 July 2016.
 - The application sought planning permission for change of use from Class A1 to Class A3 without complying with a condition attached to planning permission Ref P/00/02426/CU, dated 28 March 2001.
 - The condition in dispute is No 4 which states that: *"The use hereby permitted shall only be carried out between 0900 and 1700 hours Monday to Saturday with no opening on Sundays, Public Holidays and Bank Holidays."*
 - The reason given for the condition is: *"In order to maintain the amenities of the area and, in particular, the amenities enjoyed by the residential properties in the vicinity."*
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application form states that the appellant is seeking to change the permitted opening hours in order to open at 07:00hrs on Mondays to Saturdays and to open on Sundays from 09:00hrs to 16:00hrs. However, the submitted statement states that the proposed opening hours would be from 07:00hrs to 22:00hrs Mondays to Saturdays. The appellant then adds that he would be prepared to accept opening times of 07:00hrs to 20:00hrs Mondays to Saturday and 10:00hrs to 16:00hrs on Sundays.

Main Issue

3. The main issue in this appeal is the effects of the proposal on the living conditions of nearby residents.

Reasons

4. The appeal site sits within a small parade of shopping and commercial units which is within an otherwise residential area. The parade is close to the busy junction of Tattenham Way and Reigate Road. Parking restrictions are in place on the road immediately next to the parade and white lines define the residential cross-overs of the houses on Tattenham Way.

5. At the time of my site visit there were no available parking spaces on the road outside the parade. I also observed a number of instances of cars being parked adjacent to residential premises and the occupants of the vehicles visiting properties in the parade. I also noted that there was considerable parking on the residential parts of the road, notwithstanding the presence of drives serving the houses. Letters from local residents confirm that this parking behaviour is common-place.
6. Policy Sh12 of the Local Plan is referred to by the Council; this states that within local shopping centres such uses will normally be resisted if they detract from residential amenity by reason of noise or disturbance, or customer parking would cause problems. The amplification of the policy states that, where such proposals are permitted, the opening hours will normally be restricted to 09:00hrs on weekdays and not at all on Sundays/public holidays.
7. I consider it likely that customers of the appeal site would arrive by vehicles, due to the proximity of busy roads and the probability of it attracting passing trade. I observed and residents confirm that this occurs and it is reported that disturbance and inconvenience is caused by inconsiderately parked vehicles.
8. I understand that the appellant may wish to expand his opening hours in order to compete with other establishments. I also acknowledge the petition in support of the proposal that has been submitted by the appellant. However, this would also seem to support the suggestion that it would be well used during the additional hours and likely to generate parking and disturbance during those additional times. Whilst acknowledging the appellant's case, I consider that the additional activity during the hours proposed would be likely to give rise to activity, disturbance and inconsiderate parking that would be detrimental to the living conditions of neighbours. The appellant points out that the nearby newsagent and office used by a building company open early in the day; however, the Council states that there are no planning controls on these uses.

Conclusion

9. I have carefully considered the case put forward by the appellant but find that the likelihood of additional customers and parking during the early morning, evening and on Sundays would give rise to unacceptable disturbance to local residents, contrary to Policy Sh12. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR