
Appeal Decision

Site visit made on 28 March 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 21 April 2017

Appeal Ref: APP/P4225/W/17/3166867

Rochdale Rugby Club, Moorgate Avenue, Bamford, Rochdale, Greater Manchester OL11 5LU

- 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 Jonathan Rhodes, Rochdale Rugby Union Club against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 16/00691/FUL, dated 2 June 2016, was approved on 28 September 2016 and planning permission was granted subject to conditions.
 - The development permitted is Extension to existing balcony.
 - The condition in dispute is No 5 which states that: *'The balcony extension hereby approved is only permitted to be used between the hours of 09:00 -18:30'.*
 - The reason given for the condition is: *'In the interest of amenity in accordance with Policies BE/2 and EM/3 of the adopted Rochdale Unitary Development Plan, Policy G9 of the Emerging Rochdale Core Strategy and the National Planning Policy Framework'.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has confirmed that, after it determined the application subject to appeal, it has adopted the Rochdale Core Strategy (RCS) 2016. In addition, the saved policies of the Rochdale Unitary Development Plan (RUDP) 2006, referred to in the Council decision, are no longer in force. I have therefore considered the appeal against the RCS policies but not the earlier saved UDP policies.

Main Issue

3. Condition 5 on planning permission 16/00691/FUL requires that the balcony extension subject to the permission can only be used between 0900 and 1830.
4. The main issue is whether condition 5 is necessary and reasonable in the interests of protecting the living conditions of occupiers of nearby dwellings in respect of noise.

Reasons

5. The balcony extension subject to the appeal would be located at first floor level on the side of the existing Rochdale Rugby Club building, which is within a wider site also containing several playing fields. It would substantially enlarge an existing balcony which runs along the southern elevation and part of the
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- western elevation of the building. A members bar and function room are located on the same level within the building.
6. Across one of the playing fields to the south east, south and south west there are a number of dwellings. The Council's concerns in relation to the appeal focus upon the potential for noise to be experienced by occupiers of these dwellings.
 7. Paragraph 123 of the National Planning Policy Framework (the 'Framework') establishes that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on quality of life as a result of new development. It also requires such decisions to mitigate and reduce to a minimum other adverse impacts arising from noise from new development, including through the use of conditions. The Planning Practice Guidance (PPG) is also material to my decision¹.
 8. The proposed balcony extension would be smaller than, and be only slightly closer to the existing dwellings, than the existing balcony. The dwellings would be some distance away. However, the proposed balcony extension, having regard to its size and rectangular shape, introduces the scope for a substantially larger number of tables, chairs and drinkers to be accommodated than is the case on the current narrow, linear balcony. There would also be no substantial barriers to noise generation between the balcony extension and the dwellings. Furthermore, I have no reason to doubt the Council's point that there are few other sources of noise in the area in the evenings and that noise would tend to travel a considerable distance in this setting.
 9. The Council's Public Protection team raised no objections to the balcony extension being allowed to be used until 2300 hours. However, this view appears to be based in part upon no statutory noise nuisance having been proven from use of the existing balcony. It does not mean that living conditions would not be harmed by allowing the enlarged balcony to operate until 2300.
 10. Condition 4 of permission 16/00691/FUL requires a gate to be provided which could be used to prevent access to the proposed balcony extension from the function room via the existing balcony. However, there could be occasions when people attending functions would use the extended balcony, for example when the functions have been booked by club members. I am also not convinced that there would always be a large difference between levels of noise generated by members and by non-member function goers.
 11. No planning conditions limit the hours within which the current balcony may be used. However, this is substantially smaller than the combined area of the existing balcony and proposed extension. Whilst the use of the premises is controlled through the Licensing Act 2003, it is not clear that the licence would control evening noise by users of the proposed balcony extension.
 12. Noise from people socialising is likely to be hard to control in this setting. As a result there is scope for residents of nearby dwellings, particularly when using their gardens or with windows open on warm summer evenings, to experience noise from people using the extended balcony.

¹ Paragraph: 001 Reference ID: 30-001-20140306 to Paragraph: 012 Reference ID: 30-012-20140306

13. I acknowledge that construction of the balcony extension would deliver the benefit of allowing more people to view matches on two of the rugby club pitches. However, as most matches are likely to take place during the day most of this benefit can be derived whilst complying with condition 5 in its current form.
14. Having regard to all these points, I conclude that condition 5 on planning permission 16/00691/FUL is necessary and reasonable in the interests of protecting the living conditions of occupiers of nearby dwellings in respect of noise. Its removal or variation to allow use of the extension until 2300 hours would conflict with relevant provisions within Policies DM1 and G9 of the RCS, the Framework and PPG.
15. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR