

Appeal Decision

Site visit made on 3 April 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 28th April 2017

Appeal Ref: APP/Z4310/W/16/3166249

342 St Mary's Road, Cressington, Liverpool, Merseyside L19 0NQ

- 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 Sean Marshall (Marshall Property Construction Ltd) against the decision of Liverpool City Council.
 - The application Ref 16F/2253, dated 31 August 2016, was refused by notice dated 28 November 2016.
 - The development proposed is to erect single storey extension to rear, extraction flue to rear and new shop front in connection with use of premises as a café/restaurant/bar opening between 0900 hours and 2400 hours.
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Decision

1. The appeal is dismissed

Main Issue

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

Reasons

3. The appeal building is located within a row of commercial properties, many of which have residential uses on the upper floors. St Mary's Road forms part of a main road into and out of Liverpool city centre, and therefore carries a high volume of traffic. In the vicinity of the site the main road has a mixture of commercial and residential uses, but the surrounding side streets are predominantly residential.
 4. The premises were formerly used as an estate agent/letting company. Although I have not been supplied with any details, it is likely that the former use of the site would have operated mainly daytime hours, and that the volume of visitors each day would have been limited. The other commercial properties in the row are also mainly only open during the day, with the only uses that open in the evening being located on the far side of the main road, which is a dual carriageway at this point. Therefore, as traffic levels reduce during the evening, I would expect ambient noise levels in the vicinity to decrease, and that the side roads in particular will be quiet in the evening.
 5. To the front of the unit parking on the main road is restricted by double yellow lines, and this and the other commercial uses have no off-street parking. Although there are some parking bays further along the main road, and parking
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is available on the side streets, as many of the houses in the area have no off-street parking, as I observed on my site visit, demand for on-street parking is high.

6. The proposed café/restaurant/bar would be open from 9am until midnight every day. Although limited in size, in contrast to the former use, the proposed use would be likely to attract a higher level of customers, and in particular the main activity would tend to be in the evening. As well as from inside the premises, noise and disturbance can occur from traffic movements, banging of car doors, and the general noise associated with the arrival and departure of customers. The proposed bi-folding doors on the shop front could exacerbate the noise generated by the use.
7. Activity both around and within the premises is likely to continue for some time after the restaurant closes as customers vacate the building, and staff tidy up. Consequently, opening until midnight results in the potential for noise disturbance until the early hours of the morning. Therefore, it seems to me that the proposed change of use could lead to a significant increase in noise and disturbance for nearby residents until late at night.
8. It has been suggested that many of the customers would be local, and so would walk to the unit rather than drive. However, whilst I accept that the area is well served by public transport, the use would still be likely to attract customers and staff who would arrive and leave by car. Given the lack of any dedicated parking this would create noise and disturbance for local residents, as well as creating additional demand for on-street parking in an area where demand is already high. Moreover, I am not persuaded that local customers would necessarily be any more respectful to the living conditions of nearby residents.
9. The appellant has indicated that the opening hours could be restricted to 2300 hours each day. However, the Council indicates that within a local parade of shops they normally restrict opening to 2230 hours. Given the close proximity of residential use to the property, and the fact that the noise and disturbance would continue beyond the formal closing time, I am not satisfied that the appellant's suggested adjustment to the opening hours would be sufficient to overcome my concerns regarding noise and disturbance.
10. I note that the building has been used as a café in the past, but no evidence has been supplied with regards to its opening hours. In addition, whilst sound proofing may be able to be installed within the unit, this would only be able to protect immediately adjoining residents from noise generated within the premises.
11. Overall, I consider that the proposed development would harm the living conditions of nearby residents with particular regard to noise and disturbance. Therefore it would be contrary to Policy S14 of the *City of Liverpool Unitary Development Plan (adopted November 2002)* which, amongst other things, seeks to protect residential amenity.
12. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR