
Appeal Decision

Site visit made on 26 April 2017

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 5 May 2017

Appeal Ref: APP/B4215/W/17/3168599

Paratha Hut, 691 Stockport Road, Manchester M12 4QN

- 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 Nadeem Riaz against the decision of Manchester City Council.
 - The application Ref 113550/FO/2016, dated 8 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is described as 'permanent retention of Class A5 Hot Food Kiosk'.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal concerns development that has already been carried out, partly with the benefit of temporary planning permission now expired and partly without planning permission. I therefore treat the whole as an application for retrospective planning permission.
3. At the time of my visit the kiosk subject to appeal appeared to be closed and inoperative.

Main Issues

4. The main issues are the effects of the proposed development on the living conditions of neighbouring occupiers, its effect on pedestrian and highway safety and its effect on the character and appearance of the area with particular reference to the street scene.

Reasons

5. Paratha Hut is a crudely finished mobile kiosk which formerly had the benefit of a temporary planning permission for serving hot food to users and staff of the large and busy site of which it forms part and which appears to host a variety of car related businesses and activities, the planning status of which is not a matter for me. The merits of the Council's decision to grant temporary permission for the kiosk are not a matter for me either. Nor are the alleged breaches of the conditions of the temporary permission. I am concerned solely with the merits of the proposal subject to appeal.
6. The kiosk has been supplemented by the addition, without planning permission, of a substantial glass and uPVC enclosure for customer waiting. This would

have the effect of effectively mitigating potential noise and disturbance for residents of neighbouring properties on Longden Road, especially as the door to the enclosed waiting area is within the body of the site and there is no access from Longden Road itself. Moreover, the nearest properties on Longden Road are separated from the appeal site by intervening commercial premises. Those on Leedale Street would in any event be an adequate distance from an effectively controlled indoor hot food operation. The unauthorised enclosure (or a structure to equivalent effect) serving the kiosk would in my view therefore be an essential feature of any permanent hot food outlet at this location. Notwithstanding the previous permission granted by the Council, I consider the kiosk alone would not be acceptable on a permanent basis owing to the potential for noise and disturbance on the margins of the adjacent residential area and the likelihood of odour from the open front of the mobile kiosk.

7. In the light of the above, I consider that, as far as residential amenity is concerned, a hot food outlet contained within a building, as the present operation actually is, would, all other things being equal, be acceptable.
8. The larger site containing the car wash and other car related businesses is a hive of activity with little effective distinction between them as far as vehicle routing and parking are concerned. However, provided the use of the kiosk was by people already on the site and familiar with the way it is used by vehicles, i.e. customers and employees of the businesses on the site, I do not consider that visiting the hot food kiosk would unacceptably increase the danger to which they are in any event subject to from vehicular movements as a consequence of patronising or working within the various businesses operating.
9. All things considered, I conclude that, as far as residential amenity and pedestrian safety and highway safety is concerned, the operation as currently conceived with the enclosed customer waiting area, if it complied with suitable conditions regarding operation and patronage, need not be in conflict with the relevant objects of the development plan and national policy in those respects.
10. The effect of the proposed development on the character and appearance of the area, however, is another matter. Whilst I accept that the context is one of rather unsightly structures, dominated and accentuated by the canopy of the car wash, that are presumably established or authorised in planning terms, I am equally conscious that the development plan, namely the Council's Core Strategy, identifies, through policies SP1 and DM1, the importance of achieving good design; and the context of this site, although distinctly mixed in terms of certain of the existing buildings, is nevertheless also one of visibility on an important thoroughfare in the city. The aspirations of these policies are consistent with those of the National Planning Policy Framework regarding high quality design and this is emphatic in stating that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
11. Whatever the previous justification for the temporary kiosk, to allow it on a permanent basis would further erode the character and appearance of the existing street scene and the area and the necessary enclosure subsequently erected simply adds to the impact and overall ramshackle appearance of the operation. If it is to be carried out on a permanent basis, a permanent building

of adequate quality would be required to achieve compliance with the relevant development plan policies cited and the objects of national policy. Aspirations to improve the quality and character of the area would otherwise be harmfully undermined. For all these reasons I consider the proposed development conflicts with both policy SP1 and DM1 of the Council's Core Strategy.

12. Having taken all others matters raised into account I do not consider that material considerations sufficient to outweigh the conflict with the development plan, or indeed the equivalent intentions of the National Planning Policy Framework, have been demonstrated. I therefore conclude that the appeal should be dismissed.

Keith Manning

Inspector