
Appeal Decision

Site visit made on 24 April 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 18th May 2017

Appeal Ref: APP/B4215/W/17/3168167
31A Petersfield Drive, Manchester M23 9PS

- 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 Acamba Systems Ltd against the decision of Manchester City Council.
 - The application Ref 113759/FO/2016, dated 27 August 2016, was refused by notice dated 16 November 2016.
 - The development proposed is a change of use from shop (Class A1) to a cafe (Class A3).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from shop (Class A1) to a cafe (Class A3) at 31A Petersfield Drive, Manchester M23 9PS in accordance with the terms of the application, Ref 113759/FO/2016, dated 27 August 2016, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue of this appeal is the effect on the living conditions of occupiers of neighbouring properties, with particular regard to noise, disturbance and privacy.

Reasons

3. The appeal site consists of a single storey property that forms part of a local shopping parade of nine units located on the northern side of Petersfield Drive. The property lies in a corner position adjacent to the junction of Petersfield Drive and Wadebridge Avenue and although currently vacant was most recently in use as a shop. The other units in the parade include a convenience store (double unit), a vacant unit most recently in use as an off licence, two hot food takeaways, a pharmacy, a beauty salon and a pet grooming business. The Jolly Butcher public house is located on the southern side of Petersfield Drive, with the wider surroundings consisting of predominantly residential properties.
 4. Policy C10 of the Manchester's Local Development Framework Core Strategy (CS), adopted July 2012, permits new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy. However, this is subject to considerations relating to the cumulative impact of such uses, residential amenity including noise and disturbance, and the new uses supporting both day-time and evening/night-time economies whilst not
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undermining the role of the primary shopping area. Saved Policy DC10 of the Unitary Development Plan for the City of Manchester (UDP), adopted July 1995, states that the Council normally accepts the principle of food and drink uses, at ground level, in local shopping parades of more than 8 shops or offices, subject to similar considerations as Policy C10 of the CS.

5. The shopping parade consists of daytime and evening uses. In that context, a café occupying an existing vacant unit which would open from the early morning to the late evening would make a positive contribution to the vitality of the shopping parade with associated benefits to local employment. However, the Council have expressed concern that the proposal would introduce unacceptable noise and disturbance for neighbours due to the increase in vehicular and pedestrian activity arising from hours of operation and external seating areas. The requirements of Policy C10 of the CS and Saved Policy DC10 of the UDP in that respect are accompanied by relevant criteria within Policies SP1 and DM1 of the CS and Saved Policy DC26 of the UDP.
6. Based on the evidence before me and observation of the commercial premises during my visit, it is reasonable that the highest levels of vehicular and pedestrian activity along the frontage of the local shopping parade would occur between 0800-2100 on Mondays to Saturdays and 0900-1900 on Sundays and Bank Holidays when the convenience store is open. However, a hot food takeaway close to the site is open until later in the evening on each day. Furthermore, a public house on the opposite side of the road is open until 2230 on Sundays, until 2300 on Mondays to Thursdays and until 0100 of the following morning on Fridays and Saturdays. Consequently, I consider it unlikely that occupiers of residential properties in close proximity to the appeal site and the frontage of the local shopping parade on Petersfield Drive benefit from a local environment where pedestrian and vehicle activity and related noise is absent in early mornings, during the day and into late evenings.
7. It is reasonable that a significant proportion of customers of the proposed use would walk to the premises. Furthermore, on-street parking supports existing uses in the local shopping parade, with customers arriving in vehicles having only a short distance to walk to the premises. There is no substantiated evidence before me that the proposed use would result in a considerable increase in demand for on-street parking or vehicular movements during the day and into the evening, when compared with the existing activity associated with uses in the shopping parade and the public house. I am, therefore, satisfied that the increase in external activity arising from the use in terms of stopping and starting of vehicle engines, the opening or shutting of vehicle doors or pedestrians would not be significant between the hours of 0830-2200 on Mondays to Saturdays and 0900-1700 on Sundays and Bank Holidays as proposed. Consequently, the noise generated by customers visiting the appeal premises on foot and by car would not be unduly disturbing for neighbouring residents if opening hours are suitably restricted to those sought as part of the original application.
8. External seating areas to the paved area at the front of the units in the local shopping parade are not an established feature and the congregation of customers in the street could generate some additional noise during the day and into the evening. However, as the proposed seating area at the front would be relatively small with only two tables indicated on drg.no 1 rev 1, it would not cause an unacceptable increase in external activity or associated

- noise and disturbance for neighbouring residents during periods when the convenience store is open.
9. A further external seating area consisting of four tables and a landscaped area is proposed to be located at the rear of the unit within an existing communal parking and servicing area accessed from Petersfield Drive. A seating area in that location would increase the activity at the rear of the local shopping parade when compared with lower levels of vehicle and pedestrian movements associated with staff parking, servicing and deliveries. Any influence on the prevailing noise environment would be mainly experienced by properties in closest proximity opposite and on Wadebridge Avenue which have front elevations facing towards the rear of the appeal property.
 10. Notwithstanding the above, the neighbouring properties are positioned beyond an access road serving the residential street and some distance from the proposed rear seating area with a tall boundary wall and established trees between which provide some acoustic screening. In such circumstances, I am satisfied that the introduction of a rear external seating area of the scale proposed would not result in an increase in external activity of such significance that it would have a harmful effect on the living conditions of residents of neighbouring properties in terms of noise and disturbance. However, such a view is subject to its use being restricted to prevent conflict with periods when a quieter living environment for residents would ordinarily be expected and at times of the day when vehicle movements at the rear of local shopping parade and along Wadebridge Avenue would be less frequent.
 11. Having regard to the above, the layout and use by customers of the external seating areas can be restricted by condition to the hours of 0830-2100 on Mondays to Saturdays and 0900-1700 on Sundays and Bank Holidays to prevent harm to the existing living conditions of neighbouring residents in terms of unacceptable noise or disturbance. The proposed internal seating areas in the premises appear spacious and should have the capacity to accommodate customers outside of those periods when the café would be open. That would limit the need for customers to wait outside or congregate in the street and thereby, minimise external noise and activity later in evenings.
 12. There is no substantiated evidence before me that the proposed use would result in a significant increase in deliveries, servicing and collections, including waste collections, when compared to the previous use of the unit as a shop. However, it is necessary that deliveries to the business and associated activities are prevented when a quieter living environment for neighbours would be expected. Unacceptable noise and disturbance would not arise from deliveries and collections occurring up to 1 hour before the café opens to customers on each morning and provided that equivalent limitations in evenings to those applied to the use of external seating areas are secured by condition.
 13. The appellant has provided details of a proposed extractor unit and ventilation system. This includes an external flue and ducting to be located at the rear of the building terminating 1m above eaves level, where it would not look out of place given the presence of similar equipment to neighbouring units. Based on the information and specifications provided, the operation of the extractor unit and ventilation system proposed would provide a suitable dispersal method for fumes, vapours and odours, whilst an acoustic insulation condition could

prevent undue noise and disturbance to the living conditions of neighbouring properties. The installation, operation, maintenance and servicing of the equipment can be conditioned in accordance with the details submitted.

14. The front elevations and front gardens of residential properties along Petersfield Drive would be visible to customers arriving and leaving the premises and those using the external seating area at the front. However, open views of these areas are available from closer vantage points along the public highway. Consequently, no material harm would arise to residents' privacy.
15. I conclude that, subject to the imposition of the conditions previously mentioned, the proposal would not harm the living conditions of occupiers of neighbouring properties in terms of noise, disturbance or privacy. The proposal would not, therefore, conflict with Policies C10, SP1 and DM1 of the CS and Saved Policies DC10 and DC26 of the UDP. The policies are consistent with the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

16. There are no on-street parking restrictions along the frontage of the local shopping parade and the surrounding residential streets. At the time of my visit, there was significant availability of on-street parking for customers and local residents. It is reasonable to consider that on-street parking at peak times when the use is in operation could be higher than during my visit. However, the majority of customers will arrive at the premises on foot and public transport links are in close proximity. In that regard, the Council have indicated that the vehicle trips would be expected to be low and there would be minimal impact on existing on-street parking adjacent to the site. There is also adequate space beyond the pedestrian footway at the front of the unit to provide a small external seating area whilst avoiding encroachment onto the adopted highway, an adverse effect on a nearby ornamental tree or causing an obstruction to access to units in the parade or a post box. Consequently, the proposal would not have an unacceptable impact on highway or pedestrian safety when compared to the established use of the premises.
17. There is no substantive evidence before me that the proposal would lead to an increase in anti-social behaviour given that Greater Manchester Police (GMP) have offered no concerns in that respect. GMP recommendations relating to Secured by Design measures are discretionary matters for the appellant's consideration rather than necessary to make the development acceptable. The issue of impact on property values has also been raised, but it is a well-founded principle that the planning system does not exist to protect private interests or the value of land or property. Additional concerns have been raised about the potential for litter, but any issues of that nature can be alternatively controlled under other legislation, whilst the disposal of food waste and recycling of waste generated by the business can be controlled by condition.

Conditions

18. The Council provided a suggested list of conditions. Where appropriate, the wording has been amended to accord with paragraph 206 of the Framework. In that regard, a time limit and plans condition are reasonable and necessary in the interest of certainty of the planning permission granted. The appellant

submitted a revised plan as part of the appeal to omit the external seating areas if required. However, I do not consider such an approach to be necessary to make the development acceptable and therefore, the plans listed are those which were submitted as part of the application and upon which the Council made its decision.

19. As previously mentioned, a condition is required to ensure that the equipment to control the emission of fumes, vapours and odours from the premises is installed in accordance with the approved details before the use hereby permitted takes place. An additional condition in terms of submission and implementation of a scheme of acoustic insulation of plant and equipment is also necessary to prevent unacceptable noise and disturbance during its operation. A pre-commencement condition is necessary to secure details of a scheme to be implemented for the storage and disposal of refuse in the interest of public health and the living environment.
20. A restriction on opening hours is necessary to protect the existing living conditions of occupiers of neighbouring properties. In that respect, I have taken into account the willingness of the appellant to accept the Council's recommended condition. However, I have found no harm with respect to the longer opening hours sought as part of the planning application which therefore are reflected in the condition imposed. Time restrictions on deliveries, servicing and collections, including waste collections, are imposed as per my previous findings relating to existing activity in the local shopping parade and, therefore, exceed those suggested by the Council.

Conclusion

21. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be allowed and planning permission granted subject to conditions as set out in the Schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan / Site Plan; Floor Plan and Elevations (drg.no 1 rev 1 - dated September 2016) and Details of proposed extractor unit, which accompanied the application.
- 3) Before the use hereby permitted takes place, equipment to control the emission of fumes, vapours and odours from the premises, shall be installed in accordance with the approved details. All equipment installed as part of the development hereby permitted shall thereafter be operated, maintained and serviced in accordance with the manufacturers' specifications and retained for so long as the use continues.
- 4) Before any externally mounted ancillary plant or equipment is used on the premises, it shall be acoustically insulated in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 5) Before the use hereby permitted takes place, a scheme for the storage (including segregated waste recycling and disposal of food waste) and disposal of refuse shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the use commencing and retained in accordance with the approved details thereafter.
- 6) The use hereby permitted shall not be open to customers outside of the following times: 0830-2200 on Mondays to Saturdays and 0900-1700 on Sundays and Bank Holidays.
- 7) The external seating areas indicated on the approved plans shall not be used by customers outside of the following times: 0830-2100 on Mondays to Saturdays and 0900-1700 on Sundays and Bank Holidays.

The tables, chairs and any associated equipment shall be removed and stored within the premises outside of the hours specified above.

- 8) No deliveries to the premises, servicing and collections from the premises, including waste collections, shall take place outside of the following times: 0730-2100 on Mondays to Saturdays and 0800-1700 on Sundays and Bank Holidays.