
Appeal Decision

Site visit made on 31 May 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/P4225/W/17/3171055

**Suttons Auctioneers Ltd, 52 George Street, Wardleworth, Rochdale
OL16 2DA**

- 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 A Azhar against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 16/01414/FUL, dated 23 November 2016, was refused by notice dated 6 February 2017.
 - The development proposed is change of use from auctioneers to use B2. Extension and internal alterations to building.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from auctioneers to use B2. Extension and internal alterations to building at Suttons Auctioneers Ltd, 52 George Street, Wardleworth, Rochdale OL16 2DA in accordance with the terms of the application, Ref 16/01414/FUL, dated 23 November 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the living conditions of nearby existing and future residential occupants on Yorkshire Street and West Street, with regards to noise, disturbance and light; and (ii) the setting of the adjacent Town Head Conservation Area (THCA) and grade II listed buildings of the Ukrainian Catholic Church of Our Lady Immaculate and Saint James, 170, 172, 174, 188a, 190, 190a, 192 and 194 Yorkshire Street.

Reasons

Living conditions

3. The appeal site was formerly used as an auctioneer's premises¹ and it lies in a mixed use area. To the south-west of the site is a mixed employment zone which contains industrial uses. On George Street and West Street there are two storey terraced residential dwellings, while on the busy well trafficked Yorkshire Street there are residential flats situated above ground floor commercial premise. Uses in the ground floors of properties on Yorkshire Street include, among other things, of shops, professional services and hot food takeaways. Next to the site's north-western boundary is the Yorkshire Street doctor's surgery and a pharmacy.

¹ Council Ref: 97/D34530

4. Large areas of the site are open, covered in hardstanding and offer marked parking bays. Next to the George Street and Ball Street boundaries is a large single storey building. I am informed the building was used for two auctions per week and the site was open between the hours of 09:00 and 19:30 Monday to Friday. I understand the auctioneer's traded in new and used office equipment and other goods. This is likely to have resulted in comings and goings from the site, the delivery and picking up off stock, general noise and disturbance and possibly the use of a loudspeaker.
5. Despite this, I share the Council's concerns about the variety of uses that could potentially take place if the appeal is allowed. While the precise details of the users of the small/medium units are unknown, even with the earlier use of the site, there is likely to be a noticeable change in noise and disturbance coming from the site, having regard to paragraphs 109 and 123 of the National Planning Policy Framework (the Framework). This is due to the sub-division of the building, the hours of use and the potential nature of uses themselves.
6. Even so, the relationship and use of the site to residential occupants is not new and the building is situated a good distance from residential properties on Yorkshire Street and West Street. In this regard, the use of the open areas of the site would be used for parking and manoeuvring of vehicles, in the same manner as the former auctioneer's use. On this basis, the key change would be any noise and disturbance coming from the building itself.
7. Potentially this could break out towards properties on Yorkshire Street and West Street in particular. However, the local noise environment is noticeably influenced by vehicular movements on roads nearby, especially on the very busy Yorkshire Street. The commercial premise and the doctor's surgery also contribute, albeit in modestly through comings and goings. Despite these conditions, the proposed use has the potential to result in harm due to noise. This could have a significant adverse impact on the health and quality of residents' life. This is a lower threshold compared to any statutory nuisance governed by separate legislation².
8. Still, Policies DM1 and G9 of the Rochdale Adopted Core Strategy (Core Strategy) and paragraph 123 of the Framework point towards the consideration of mitigation measures to reduce any adverse impacts, through the use of planning conditions.
9. While the Council do not consider the use of planning conditions would mitigate any noise pollution arising from the proposed use, this is not a view that I share. Given the position of adjoining residential properties and their amenity spaces which lie next to the site, I consider that an acoustic boundary together with the interface distance would lessen any noise break out. Also, a noise restriction and a control of the working and construction hours would confine any noise to within acceptable parameters so that residential occupants would not be adversely affected. Jointly these are important as controlling the door openings would, in practice, prove difficult to enforce. Moreover, a condition to secure external lighting would enable a suitable scheme to be designed, so that nearby residents' would not be subject to adverse light pollution.
10. For these reasons, on this issue, I conclude that the proposal would accord with Core Strategy Policies DM1 and G9 and paragraphs 17, 109 and 123 of the

² Environmental Protection Act 1990

Framework. Together these policies seek to, among other things, ensure development is compatible with surrounding land uses so that it does not lead to an unacceptable increase in noise and light pollution. The policies also seek to mitigate against any noise and light pollution by using planning conditions.

Conservation area and listed buildings

11. The site is next to or near to the THCA and a number of grade II listed buildings at Nos 170 to 174 and Nos 188a to 194 Yorkshire Street and the Ukrainian Catholic Church of Our Lady Immaculate and Saint James. For clarity, the listing for the Ukrainian Catholic Church of Our Lady Immaculate and Saint James is described as the 'Ukrainian Catholic Church of Saint Mary'.
12. Nos 170 to 174 and Nos 188a to 194 Yorkshire Street are brick-built buildings with either a stone slate or slate roof. Nos 188a to 194 are a row of terraced properties in mixed use. They have sash windows and the rear elevation of No 190 has a two storey octagonal bay window with tripartite windows. The rear elevation of the terrace backs onto the appeal site and is part of a tall row of properties that screens the busy nature of Yorkshire Street, leading to a quieter environment at the rear. The octagonal bay window provides a pleasing visual contribution from George Street.
13. Nos 170 to 174 are town houses dating from 1793 with sash windows set in flat brick arches and stone sills. Due to their position set back from the road together with the wide pedestrianised walkway they positively contribute to the functional and visual setting of the Ukrainian Catholic Church of Saint Mary. This is constructed from ashlar with a slate roof and has a wide nave with a central tower with entrance porches to the north and south. The space surrounding the church, partially afforded by Nos 170 to 174 leads to a pleasant setting mainly enjoyed by pedestrians.
14. The proposal would split the existing building up. Views of the rear elevation of No 190 would remain intact from George Street, even with the proposed extension which would be of a similar scale, style, design and finish to the existing building. In my view, the extension would not affect the setting of the listed buildings, the THCA or the character and appearance of the site. Yet, the proposal would be a more intensive use, and despite the nearby mixture of uses, the proposal has the potential to audibly detract from the setting of the THCA and the listed buildings, aside to noise from traffic movements.
15. With regard to paragraph 134 of the Framework the harm to the listed buildings and the THCA would be less than substantial. Even so, this still amounts to a harmful impact which adversely affects the significance of these as heritage assets. Public benefit would arise from the proposal by bringing the site back into a viable use and providing a range of small to medium-sized units for start-up businesses who would be charged economical rents in a highly sustainable mixed use area. I consider that these public benefits would outweigh the less than substantial harm and I note the Council share this view.
16. On this issue, I conclude that the proposal would accord with Core Strategy Policies DM1, P2 and P3, saved Rochdale Borough Unitary Development Plan Policy BE/17 and paragraph 134 of the Framework. Together, these policies seek to conserving and enhancing key heritage assets and their settings through high quality design that enhances the borough's identity and sense of

place and where development will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.

Other Matter

17. I note concerns around the site's security and access arrangements. However the appellant does not propose to change the existing boundary treatment or access arrangements to and from George Street. In terms of the latter, I agree with the Council's Highway and Engineering Service's view that the existing access is suitable to serve a development of this size and nature.

Conclusion and Conditions

18. I have had regard to the conditions that have been suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. A condition is necessary, in the interests of the character and appearance of the area, to secure matching materials for the proposed extension. Conditions to secure an acoustic screen, details of external lighting, and to control noise levels, the use of the external part of the site, and the hours of business or construction are all necessary in interests of neighbouring occupants' living conditions.
19. As the users of the units are, at this stage, uncertain, I have imposed a condition, in the interests of residents' living conditions, to secure details of any plant or odour extraction equipment. However, I have not imposed a condition regarding open storage bays, as the plans set out the remit of the scheme.
20. For the reasons given above I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF 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: Existing/proposed layout; Proposed elevations; Existing elevations and Existing/proposed site plan and location plan.
- 3) The materials used in any exterior work shall match those of the existing building in terms of type, colour, texture and scale.
- 4) The development hereby approved shall not be occupied until a solid acoustic screen is erected to the northern and eastern boundaries of the site. The screen shall be erected in accordance with full details which have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the position, height, design and materials of the screen. The screen shall be retained at all times when any part of the site is in use for the use permitted by this permission.
- 5) Details of any plant machinery and/or odour extraction system to be erected on the units hereby approved shall be submitted to and approved in writing by the Local Planning Authority before their installation. Such details shall include the means of extraction and filtration of any odours, the finish of any external flue(s), noise emission data, manufacturer's operating instructions and a programme of equipment servicing/maintenance. Any plant machinery and/or odour extraction system shall be installed in full accordance with the approved details and retained as such thereafter.
- 6) Full details of any external lighting to be installed on the building or on the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The details shall include the position and height on the building or the site, its luminance, angle of installation and any hoods to be fixed to the lights. Only the approved external lighting shall be installed on the site in accordance with the terms of any such approval.
- 7) There shall be no storage of containers, waste skips, materials, goods, equipment or trailers on any external part of the site. External areas shall be kept clear for the parking and manoeuvring of vehicles.
- 8) The level of noise emitted from the site shall not exceed 43 dBA Leq 1 hr, between 08:00 and 18:00 hours Monday to Friday and 08:00 and 12:00 hours on Saturday and 38 dBA 5mins Leq at any other time, as measured on the boundaries of the site with any noise sensitive premises.
- 9) The premises shall not be open for trade or business nor any external area of the site accessed before 08:00 hours nor after 18:00 hours Monday to Friday nor before 08:00 hours and 12:00 hours on Saturday and not at any time on a Sunday, Bank Holiday or a Public Holiday.
- 10) No site preparation, delivery of materials or construction works, other than quiet internal building operations such as plastering and electrical installation, shall take place other than between 08:00 and 18:00 Monday to Friday and between 08:00 and 12:00 on Saturday and not at any time on Sundays, Bank Holidays or Public Holidays.