
Appeal Decision

Site visit made on 23 May 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 16 June 2017

Appeal Ref: APP/W4223/W/17/3170095

125 Chamber Road & land at Werneth Cricket Club, Oldham OL8 1AA

- 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 Manchester Superstore (Oldham) Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/337665/15, dated 13 October 2015, was refused by notice dated 3 November 2016.
 - The development proposed is 1) Retention of front canopy 2) Retention of increased sales area 3) Revised parking and access arrangements 4) Extended hours of operation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The originally submitted application included the proposed use of land at Werneth Cricket Club as part of the parking provision for the development subject to appeal. The Council's third and fourth reason for refusal relate to this aspect of the proposal. However, the appellant has confirmed that, following the submission of a revised plan on 10 March 2016¹, the use of the land at Werneth Cricket Club did not form part of the proposal when the application was determined. I have determined the appeal on this basis. As a result, my decision focusses on the first and second reasons for refusal.
3. The application confirms that the front canopy had already been erected, and the increased sales area was already in use, when it was submitted to the Council. The revised car parking arrangement referred to above had yet to be implemented at the time of my site visit. These points have not affected my consideration of the appeal, which I have determined on its merits.
4. The appellant has indicated that my site visit was undertaken during a busy time of year. I have taken this into account in my decision.

Main Issues

5. The main issues are:
 - (a) The effect of the proposed development on highway safety; and
 - (b) The effect of the front canopy on the character and appearance of the host building and the surrounding area.

¹ Drawing number SCP/16078/F01, prepared by SCP Consultants

Reasons

Background

6. Planning permission PA/332890/12 was granted in 2012 for use of the appeal property as a food superstore including a single storey front extension. The approved site layout included the provision of 30 car parking spaces within the site. Within the current appeal proposal, the canopy and sales area for which approval is sought are larger than that approved under permission PA/332890/12. The currently proposed car parking layout also differs from that set out in that earlier scheme.

Highway safety

7. Paragraph 32 of the National Planning Policy Framework (the 'Framework') establishes that planning decisions should take account of whether safe and suitable access to the site can be achieved for all people.
8. The site currently has 4 vehicular access points which serve a vehicle parking and manoeuvring area in front of and to the sides of the main building within the site.
9. The Council's Traffic section has indicated that in the period immediately after the appellant started to operate from the site the use of the site was subject to complaints regarding car parking and loading. As a result, a Traffic Regulation Order (TRO) was put in place preventing parking and loading from taking place along Chamber Road outside the appeal site. Figures provided by the Council's Traffic section² indicate that, despite the presence of the TRO, 108 Penalty Charge Notices were issued and 222 drivers were moved on between 26 June 2015 and 1 October 2015.
10. Within the currently proposed scheme, a new one-way arrangement would be introduced including 28 car spaces laid out to a revised, 'herringbone' arrangement within the site. This would improve the operation of the site to some extent.
11. However, the amount of space for example for moving vehicles into and out of car spaces would still be limited. The layout would also, due to its very narrow and linear nature running past the entrance to the shop, lead to substantial scope for conflict between vehicle and pedestrian movements. It would be highly susceptible to blockages for example as vehicles move into or out of spaces, or as shoppers carry goods between the shop and their cars. Whilst the current proposal shows that most vehicles could in theory enter and leave the site in forward gear provided vehicles are parked correctly and there are no obstructions within the site, there are likely to be frequent occasions when this is not the case.
12. The appellant proposes that, to avoid conflict between delivery and customer vehicles, any deliveries would be made between 0700 and 0800, i.e. well before the superstore opens at 0900 on any day. I have no reason to doubt that many suppliers of fresh produce would be likely to be able to operate on this basis. However, I am not convinced that a condition preventing all deliveries outside the hours proposed would be readily enforceable by the Council.

² Memorandum from the Council's Traffic section dated 13 July 2016

13. In addition, whilst the submitted details suggest that deliveries would be undertaken by fixed body vehicles, it cannot be assured, for example through the use of a planning condition, that larger vehicles would not visit the site. Even outside store opening times any large articulated vehicles would find difficulty in manoeuvring into and out of the site. Any condition seeking to limit the routing of delivery vehicles to that shown on the submitted layout (approaching from the west and leaving to the east) would also not be readily enforceable. Any large delivery vehicles, whether fixed body or not, which approach or leave the site in a different direction would have difficulty in making the necessary sharp turns into or out of the site.
14. I accept that the existence of the TRO should substantially limit the amount and frequency of any parking and loading which takes place on Chamber Road. However, given the extensive record of breaches of the TRO referred to earlier it cannot be assumed that this will be the case, even following implementation of the revised car parking layout.
15. I accept that the scheme subject to permission PA/332890/12 could be implemented if the appeal is dismissed. However, that proposal included a smaller amount of shopping floor space, 2 further car spaces and a more generous parking layout than the proposal subject to the current appeal.
16. I conclude that, for reasons set out above, the development subject to appeal, even with the revised car parking layout now proposed, would cause substantial harm to highway safety. Its approval would conflict with those provisions of policy 9 of the Oldham Joint Core Strategy and Development Management Policies development plan document (OJCDDMP) 2011 and the Framework which relate to this matter.

Character and appearance

17. Paragraph 56 of the National Planning Policy Framework (the 'Framework') stresses that good design is a key aspect of sustainable development.
18. The appeal property is in a mixed commercial/residential area. It includes a long, single storey retail building, a smaller building and hard surfaced parking and manoeuvring areas and is prominently located at the brow of a hill on Chamber Road.
19. The canopy subject to appeal is sited in part within the area that would have been covered by the extension subject to permission PA/332890/12. It is also lower than, and has a roof pitch which is at a similar angle to that of, the main building behind it. Its design, whilst being utilitarian, is no more so than that of the main building. However, due to a combination of its position, length, bright green cladding, plastic roof panels and elongated fascia it forms a prominent feature in the area.
20. Taking account of these points, I conclude that the canopy causes moderate harm to the character and appearance of the host building and the surrounding area. Its approval would conflict with the provisions of policies 9 and 20 of the OJCDDMP and the Framework related to this issue.

Other Considerations

21. I have no reason to doubt that the store within the appeal property provides a valued and well used facility, which contributes to meeting shopping needs in

the area. I also acknowledge that the increased sales area allows there to be greater circulation space for customers within the store itself whilst maintaining or broadening the range of goods on display. However, even if the appeal is dismissed the retail use could continue to operate, albeit at a smaller scale, under planning permission PA/332890/12. The benefit in terms of meeting shopping needs that would result from allowing the appeal is therefore limited.

22. I also accept that the principle of there being a retail use within the site is not in dispute. There is also no evidence that the increased floor space subject to appeal causes any material harm to the viability or vitality of any local business or any material conflict with policies 14 or 16 of the OJCDMP. Conditions could also be imposed to limit the use of the extended floor space to the sale of convenience goods only and to prevent its sub-division. The use would not, within the opening hours set out in the application cause any material harm to the living conditions of occupiers of any nearby dwelling. However, these points all constitute a lack of harm in relation to these matters rather than positive benefits to weigh in the planning balance.
23. I note the appellant's claim that the larger canopy has been erected due to confusion over the approved plans for permission PA/332890/12. However, this matter does not weigh substantively in support of the proposal.

Planning balance and conclusion

24. I have found that the development subject to appeal, even with the revised car parking layout now proposed, would cause substantial harm to highway safety. I have also found that the canopy causes moderate harm to the character and appearance of the host building and the surrounding area. Collectively, particularly given the resultant conflict with development plan policies, these points carry substantial weight against allowing the appeal.
25. I have also found that the extended floor space subject to appeal provides some benefit to the local community by helping to meet shopping needs and enables there to be a more spacious layout within the store building. However, whilst these benefits are material for reasons set out earlier they carry limited weight. No other substantive benefits would result from allowing the appeal.
26. Having regard to all these points, I conclude that the harm that would arise from allowing the appeal would significantly and demonstrably outweigh the benefits. The proposal does not accord with the development plan as a whole or constitute sustainable development in the terms set out in the Framework.
27. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR