
Appeal Decision

Site visit made on 31 July 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 23rd August 2017

Appeal Ref: APP/U4230/D/17/3168871
153 Monton Road, Eccles M30 9GS

- 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 Abdul Mannan against the decision of Salford City Council.
 - The application Ref 16/68884/FUL, dated 27 September 2016, was refused by notice dated 8 December 2016.
 - The development proposed is to create an extension at the rear of the property and to change the use of at property to hot food takeaway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the living conditions of the occupiers of 151 Monton Road, with regards to noise, disturbance and odours; (ii) the character and appearance of the area, with regards to the proposed extraction flue; (iii) the vitality and viability of the Monton neighbourhood centre; and (iv) the character and appearance of the area, with regards to the proposed security shutters.

Reasons

3. The Council's officer report refers to the draft Local Plan Policy TC3, but I am unaware of the stage of the Local Plan's preparation, whether there are any unresolved objections to the Local Plan or whether it has been examined in public. I attach policies in the Local Plan very little weight. In any event, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Living conditions

4. The appeal site is a two storey mid-terraced dwelling on the west side on Monton Road. The property is currently a dwelling house. As noted in the recent appeal decision at 159 Monton Road¹, the terrace (Nos 149 to 175) contains a mixture of residential, retail and other commercial uses. Adjacent to the site is No 151 which is in residential use. Ground and first floor window openings handed nearest to the appeal site are in the front elevation of No 151. A further dwelling is in the end terrace property at 149 Monton Road. An area of hardstanding is between the site and the road.

¹ Appeal Decision Ref: APP/U4230/W/16/3166088

5. Concerns are raised by the Council in respect of the potential for noise, disturbance and odours. The proposed use would operate daily between 11:00 and 23:00 on Monday to Saturday and between 11:00 and 22:00 on Sundays and Bank Holidays.
6. Notably, the proposed shop front would introduce an entrance door in the centre. Customers coming and going from the premise would use this doorway which is relatively close to the ground and first floor windows in the front elevation of No 151. Both windows are sizeable and are top opening. The first floor window serves a bedroom while the ground floor serves a lounge. There is significant potential for comings and goings to result in noise and disturbance to the adjacent occupiers. Furthermore, there is also potential for customers to congregate in front of the site and on the low brick wall shared with No 151.
7. Monton Road is relatively busy with vehicular and pedestrian movements. However, due to the site's location which is towards the end of the neighbourhood centre, and its proximity to residential occupiers, this is only likely to mean that the proposed use would be attractive throughout the proposed opening hours and into the more sensitive evening hours.
8. While, the noise would continue to be created outside the site from vehicles and or pedestrians passing irrespective of the proposal, persons entering and leaving the site would be closer to the occupiers at No 151 and to two of their main living spaces. I recognise the appellant's Environmental Assessment concludes that noise levels would be below the measured background noise levels, but these were confined to daytime hours, when background noise levels are higher. Conversations from within the premise may not be audible to the occupiers of No 151. However, I am not satisfied that the proposal would not result in harm to the living conditions of No 151 due to the comings and goings and customers congregating outside of the site during the evening, when receptors are more sensitive to noise and disturbance. This harm would occur seven days a week. So, despite the scale of the proposal, it would, due to the site's proximity to No 151, have a significant effect on the occupiers' living conditions. This would not be mitigated by a planning condition controlling the proposed opening hours.
9. The proposed use would require extraction equipment. The plans show the extraction flue has a diameter of 600 mm. On this basis the Environmental Assessment assumes that a 500 mm fan would be used. On this basis, calculated noise levels are well in excess of measured background noise levels. This would not be mitigated by the addition of silencers. While, further modelling was undertaken in the Environmental Assessment, this was based on a different fan along with a combination of silencing equipment. As a result the equipment would be below the measured background level, thereby ensuring it would have a low adverse impact on the occupiers of No 151. I note that there is no technical evidence before me to warrant coming to a different view.
10. In relation to odour from the proposed use, the appellant's Odour Assessment highlights the need for a high level of odour control on site in order to mitigate for any effects. The odour assessment also suggests mitigation measures and a schedule of maintenance. However, no precise details of the mitigation measures are before me. I cannot therefore be certain whether or not the proposal would ensure odours arising from the proposed use would be adequately controlled to such an extent that they would not adversely affect the living conditions of No 151. Nevertheless, despite residents' concerns such measures could be obtained by a suitable planning condition.

11. Food production is likely to result in noise from the use of preparation surfaces which are typically metal. But due to the internal layout these would not be fitted against the party wall with No 151. As a result, no noise would transmit into No 151 or cause harm to their living conditions. Delivery times could also be controlled by way of a suitable planning condition to ensure that they do not occur during evening hours especially. Furthermore, planning conditions could be used to ensure refuse bins are not filled during the evening and electronically operated security shutters are used so as to reduce noise levels.
12. However, despite my findings in respect of odour, the extraction equipment and controls in respect of delivery times, refuse bins and the security shutters, I do not consider that these outweigh the significant harm to the living conditions of the occupiers of No 151, with regards to noise and disturbance through the comings and goings from the appeal site. I conclude on this issue that the proposed development would not accord with saved Policy EN17 of the City of Salford Unitary Development Plan (UDP); which seeks development not to cause or contribute towards a significant increase in pollution by reason of noise, unless they include mitigation measures commensurate with the scale and impact of the development.
13. Although the Council refers to the Hot Food take aways Supplementary Planning Document (HFTASPD) on this issue, the extract before me is concerned with unresolved amenity issues from existing uses in the area not proposed uses.

Extraction flue

14. An extraction flue would be attached to the proposed single storey extension and the existing two storey outrigger to rear of the property. The outrigger adjoins No 151 and its small rear garden area. Accordingly the extraction flue would be sited close to the shared boundary and the rear garden of No 151. Despite this, the flue would not be readily visible from the rear ground or first floor windows in No 151. Even so, the rear elevations of 149 to 153 are very visible due to the shared access which extends across their rear elevations. Furthermore, the rear garden of No 151 is the main external amenity space, given the location and size of the space to the front of this dwelling. There are distant views from the appeal site near to Belmont Street and Greenside Court.
15. Having regard to these factors, together with the design and size of the proposed extraction flue, I consider that it would be an intrusive and dominant form of development which would not be in keeping with the residential setting in this part of Monton Road. While, such features may be more common in a neighbourhood centre, there is still a need to ensure development is of an appropriate scale and proportion to its surroundings so that it does not impact on views and vistas.
16. For these reasons, on this issue, I conclude that the proposed development would significantly harm the character and appearance of the area, with regard to the proposed extraction flue. The proposal would be contrary to saved UDP Policies DES1 and DES8; which together seek development that, among other things, reflects the general scale, character and proportions of the local area, having regard for its impact on, and the quality of, views and vistas.

Monton neighbourhood centre

17. The site is part of the Monton neighbourhood centre. Saved UDP Policy S4 explains that "*proposals for amusement centres, and any uses falling within*

Classes A3, A4 or A5 of the Town and Country Planning (Use Classes) Order 1987, will not be permitted where the use would have an unacceptable impact, either in itself or cumulatively, on: the vitality and viability of a town centre or neighbourhood centre.” This policy is broadly consistent with paragraph 23 of the National Planning Policy Framework (the Framework), so I attach it significant weight.

18. The terrace which the appeal site forms part of extending between Nos 149 and 175. My observations on site confirmed that food and drink related uses occupy Nos 165, 169, 171 and 175, which means that only four units in the terrace would, if the planning permission at No 159 is implemented, remain in Class A1 retail use. Given this, I concur with the view of my colleague Inspector, who in their decision² at No 159 considered that *"the character of this part of the centre therefore appears to be changing to be more reliant on the evening economy"*.
19. Unlike No 159, the appeal site is occupied as a residential dwelling. Thus, there would be no change to the retail character or function of the centre. Even so, the Council is of the view that the proposed use would lead to greater clustering and an over-concentration of food and drink uses in this part of the centre. According to the Council's survey from January 2016, out of the 88 units in the centre, 20 of the units were in food and drink related uses (31% of the floor space), with 6 of these in Class A5 use. Class A1 uses accounted for 37% of the floor space in the centre.
20. Since January 2016 there has been a further shift, with 22 units now in Classes A3, A4 or A5. One of these is No 159 while the other is a Class A1/A3 use at 241-243 Monton Road³. Consequently, there are now 7 units in Class A5 use in the centre. However, the nearest Class A5 use is currently 177 Monton Road. Others are further away in relation to the appeal site.
21. Saved UDP Policy S4(iii) requires consideration of the proposed change of use in the context of the centre as a whole. The proposed change of use would not, despite the recent planning permissions, result in a significant change in the mix of uses in the centre, even if there is a greater concentration of food and drink related uses in the terrace itself compared to other parts of the centre. Even accounting for No 159, there would only be one Class A5 use in the immediate area. Thus, a balance of uses would therefore remain and there would not be an over-concentration of Class A5 uses in the immediate area, with regards to Policy HFTA 1 of the HFTASPD.
22. I therefore conclude on this issue that the proposed development would not harm the vitality and viability of the Monton neighbourhood centre. In this regard the proposal would accord with saved UDP Policy S4, the HFTASPD and paragraph 23 of the Framework, which jointly seek to support the viability and vitality of neighbourhood centres by ensuring that there would not be an over-concentration of uses, such as hot food takeaways in the immediate area.

Security shutters

23. I note the Council do not wish to contest this part of the appeal if the security shutters are inside the premise. A new shop front would be installed along with powder coated security shutters which would be fitted inside the premise. The shutters would be perforated, thereby allowing light from within the premise to

² Appeal Decision Ref: APP/U4230/W/16/3166088

³ Council Application Ref: 16/68641/FUL

be thrown onto the hard standing and the pavement. The perforation would also allow passive surveillance and security by allowing views into the premise. So, despite the variety of security shutters in the area and the negative effect that an external box security shutter can have on the character and appearance of the street scene, the proposed shutters would accord with Policy DC14 of the Council's Supplementary Planning Document Design and Crime (SPDDG) and the Council's Design Guidance: Shop Fronts Supplementary Planning Document (DGSPD).

24. I conclude on this issue that the proposed development would accord with UDP Policy DES10, with Policy DC14 of the SPDDG and the DGSPD. Together these policies seek security shutters to be internally fitted, powder coated and of an open style, so that the development allows natural surveillance.

Other matters

25. The appeal site would be readily accessible by various modes of transport and customers could park in nearby side streets or car parks nearby. I also share the parties' views regarding the single storey rear extension, in terms of its effect on the character and appearance of the area and residents' living conditions. For the same reasons, no adverse effects would be created by the proposed refuse arrangements. The scheme would also result in employment opportunities in a small business within the neighbourhood centre. However, I have determined this appeal in accordance with the development plan, unless material considerations have indicated otherwise.

Conclusion

26. I have found no harm from the appeal scheme in relation to the neighbourhood centre and from the security shutters. These are outweighed, however, by the harm that I have found in relation to the scheme's impact on neighbours living conditions and the proposed extraction flue.
27. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR