



Appeal Decision

Site visit made on 21 August 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 4th September 2017

Appeal Ref: APP/J0540/W/17/3176012

3 Fitzwilliam Street, Peterborough PE1 2RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Ali Amjaid against the decision of Peterborough City Council.
 - The application Ref 17/00209/FUL, dated 3 February 2017, was approved on 13 April 2017 and planning permission was granted subject to conditions.
 - The development permitted is proposed use of second floor as a satellite 24 hour taxi office.
 - The condition in dispute is No C3 which states that: no taxis or private hire vehicles shall visit the site at any time.
 - The reason given for the condition is: to preserve the amenities of the occupiers of nearby units; in accordance with policy CS16 of the Peterborough Core Strategy (DPD) 2011 and policy PP2 of the Peterborough Planning Policies (DPD) 2012.
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Decision

1. The appeal is allowed and the planning permission Ref 17/00209/FUL for proposed use of second floor as a satellite 24 hour taxi office at 3 Fitzwilliam Street, Peterborough PE1 2RU granted on 13 April 2017 by Peterborough City Council, is varied by deleting condition C3 and substituting it for the following condition:
 - 1) At no time shall taxis or private hire vehicles visit the development hereby approved.

Background and Main Issue

2. The Council granted consent for the development, which included a condition preventing taxis from visiting the site. The information provided by the appellant at application stage stated the proposal was for a satellite office to supplement the existing taxi businesses based at Bourges Boulevard because of the volume of calls being received and the need for more operators.
3. The appellant's application clearly stated that no taxis would visit the satellite office. However, he now argues that taxis operate in conjunction with his own hot food takeaway business and those adjacent and that the condition prevents these operations from taking place. Accordingly, he deems the condition to be unreasonable. The Council, on the other hand, state that the application was not assessed on the basis of such operations taking place and that the condition is necessary to ensure the satellite office is operated in the manner proposed in the application.

4. The main issue in the appeal is whether the condition is reasonable or necessary in the interests of the amenity of nearby occupiers.

Reasons

5. The taxi office is located within the city centre towards the north-western end of Fitzwilliam Street above the appellant's hot food takeaway business. There are also a number of similar businesses along this part of Fitzwilliam Street. The access to the car park of the Bull Hotel sits immediately next to the appellant's premises. Fitzwilliam Street is sectioned off by a set of bollards close to the taxi office, which effectively creates a short cul-de-sac without a turning head. Apart from two marked out on-street parking bays, the north-western part of Fitzwilliam Street is subject to double yellow line restrictions. The disabled parking facilities for Peterborough Central Library are located opposite. At my site visit, I observed that the on-street parking bays and most of the library's disabled off-street parking bays opposite were occupied by vehicles.
6. Given the existing restrictions in Fitzwilliam Street, were private hire vehicles allowed to visit the taxi office, they would need to make reversing manoeuvres in order to turn around before driving off. Drivers would be likely to reverse either into the hotel car park entrance or into Broadway. This would cause substantial disruption to those seeking to enter or leave the hotel car park and to those travelling along Broadway including Hackney Carriages leaving the nearby rank. In my view, this would have an overall disruptive effect on the amenities of those occupying and running businesses in Fitzwilliam Street.
7. Having said all of that and although I acknowledge and share the Council's concerns and those of interested parties, the condition as worded prevents any private hire vehicles from visiting either the taxi office or the appellant's takeaway business. I do not seek to criticise the Council for what appears to be an error in the precise drafting of the condition. However, Planning Practice Guidance (PPG) is clear that planning conditions will fail the test of necessity if they are wider in scope than is necessary to achieve the desired objective. Furthermore, PPG also says that conditions should not be used to remedy pre-existing problems or issues.
8. The condition should not prevent the otherwise legal use of the public highway by private hire vehicles and any breaches of the private hire license terms are a matter for the licensing authority. In addition, the Council has powers to enforce the existing parking restrictions. Therefore, the condition is unnecessary in that it goes wider than is necessary to prevent private hire vehicles from visiting the development for which planning permission was granted. I have therefore deleted the disputed condition and replaced it with a condition specific to the development's impacts.

Conclusion

9. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector