



Appeal Decision

Site visit made on 31 October 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 23rd November 2017

Appeal Ref: APP/Z2315/W/17/3179052
80 Coal Clough Lane, Burnley, BB11 4NW

- 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 Javed against the decision of Burnley Borough Council.
 - The application Ref APP/2017/0199, dated 7 April 2017, was refused by notice dated 2 June 2017.
 - The development proposed is described as “proposed change of use from Newsagent (A1) to hot food takeaway (A5). Installation of new shop front and integrated roller shutters”.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of No 80 Coal Clough Lane with regard to noise and disturbance.

Reasons

3. The appeal property comprises a mid-terrace commercial unit on the edge of Coal Clough Lane Local Centre. It is the last commercial unit in the row and adjoins No 80 to the south, which is a residential property.
4. The appeal terrace consists of small units and dwellings with relatively narrow frontages. The entrance to the proposed hot food takeaway would be in close proximity to No 80, and it would share a party wall with that property. In this regard, it would have a very close relationship with the proposed use. The takeaway would be likely to attract a significant number of comings and goings, including by car, that would create disturbance throughout the evening. The use would generate chatter both inside and outside the premises, including as customers enter and leave. This would create a regular disturbance at a time when neighbouring occupiers would be more likely to be at home, and would be particularly disruptive to families with young children. At this time, general background noise would also be lower and any noise associated with the premises would therefore travel further. This would lead to a significant deterioration in the living conditions of the occupiers of No 80. Moreover, the extraction flue would be positioned close to the rear windows of No 80, which would restrict the ability of occupiers to leave these windows open, even allowing for the fact that vents can be filtered.

5. An off licence is located on the opposite side of the road that is open into the evening. However, that occupies a significantly larger unit and its entrance is positioned on a street corner away from the adjoining dwelling. This arrangement is significantly less disruptive, and it therefore does not provide a justification for the appeal proposal. Similarly, whilst the appellant states that the former newsagent opened until 22:00, that is a less intrusive use.
6. Whilst I note that a petition has been presented in favour of the development, that in itself does not mean that the appeal should be allowed. In any case, there are other units in the centre that do not have a close relationship to a dwelling that could accommodate a hot food takeaway.
7. Separately, a litter bin is located a short distance from the appeal unit. I am satisfied that this would minimise any litter associated with the development.
8. For the above reasons, I conclude that the development would significantly harm the living conditions of the occupiers of No 80 Coal Clough Lane with regard to noise and disturbance. It would therefore be contrary to Policy CF13 of the Burnley Local Plan (2006), which seeks to ensure, amongst other things, that proposals for hot food takeaways are not detrimental to residential amenity. It would also be at odds with the National Planning Policy Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion

9. For the reasons set out above, I conclude that the development would significantly harm the living conditions of the occupiers of No 80 Coal Clough Lane with regard to noise and disturbance. Whilst there would be a positive benefit in bringing a vacant unit back into use, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR