



Appeal Decision

Site visit made on 23 October 2017

by Geoff Underwood BA(Hons) PGDip (Urb Cons) MRTPI IHBC

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

Decision date: 11 December 2017

Appeal Ref: APP/N4720/W/17/3180023
60 Middleton Road, Morley LS27 8AP

- 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 L Jenkins against the decision of Leeds City Council.
 - The application Ref 17/02390/FU, dated 12 April 2017, was refused by notice dated 7 June 2017.
 - The development proposed is the change of use from laundry service (sui generis) to hot food takeaway (A5).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is an external flue in situ on the South Parade elevation of the building, however the appellant advises that a thinner flue is proposed and is shown on the drawings accompanying the application. I have therefore determined the appeal on the basis of the scheme shown on the proposed drawings.

Main Issues

3. The main issues raised by this appeal are the effect the development would have on the living conditions of neighbouring residential occupiers and the effect the external flue would have on the character and appearance of the host building and the area.

Reasons

Living Conditions

4. The area is predominantly residential in character although there is a corner shop diagonally opposite the site, a workshop on the other side of South Parade and a hot food takeaway at the end of the terrace in which the property is located. There is a house immediately next door on Middleton Road which, in common with other adjacent terraced houses, has windows to habitable rooms close to the street outside. There are also residential properties opposite and nearby on South Parade, separated from the appeal building by an archway. The appellant proposes to open between 1130 and 2300 on all days.
5. Hot food takeaways have the potential to adversely affect the living conditions of nearby residents. This would be as a result of noise from activities inside the premises and noise and disturbance outside caused by customers coming

and going on foot and in vehicles as well as delivery vehicles, particularly when these activities take place late into the evening and night. Both customers and delivery drivers are likely to choose to park as close to the premises as possible. Whilst the frontage of the building itself has parking restrictions immediately outside these do not extend outside adjoining houses meaning that available spaces are likely to be used by visitors to the premises.

6. Occupiers of nearby dwellings would currently experience a noise environment generally in keeping with a residential area, particularly in the evening. The close proximity of residential properties to the appeal site creates a sensitive relationship between them and would mean that occupiers would be likely to experience such noise and disturbance.
7. With appropriately specified noise insulation along the party wall with 62 Middleton Road, noise disturbance from inside the proposed takeaway could be minimised and this could be controlled by way of a condition. However there is no suggestion that noise and disturbance arising outside could be adequately mitigated.
8. The existing takeaway nearby has the potential to generate similar disturbance and the appellant advises that although this opens until 2330 most nights there is no planning restriction on hours and could conceivably open later. Nevertheless, the proposal would add to any disturbance and exacerbate any current issues as well as introducing such a use immediately adjacent to residential properties not presently neighbouring a takeaway. There is no substantive evidence to support the appellant's view that the new use would widen choice and competition but not attract more custom to the area. There is a realistic probability that the use would attract more visitors to the area late at night.
9. The appellant points out that the previous launderette use had no restrictions on hours of operation. However the type of activity associated with such a use would in all likelihood be less intensive and materially different in character to that of customers and delivery drivers visiting a hot food takeaway. Similarly, the activity associated with the corner shop, which the appellant advises is open until 2200, would be materially different to that of a hot food takeaway. There is no indication that the workshop operates late in the evening or night.
10. Although the appellant points out that Middleton Road is a busy one I noted that it is a single carriageway road in a built up area, with extensive space for on-street parking and has traffic calming in the form of chicanes and give way points to the east of the site. These conditions indicate that traffic is unlikely to pass along at particularly high speed or to give rise to levels of traffic noise in the evening and night time that would make that generated by the proposed use markedly less noticeable.
11. The proposal would give rise to material harm to the living conditions of neighbours, the effects of which would not be materially less intrusive in the presence of existing establishments or environmental factors. The development would consequently be contrary to Core Strategy¹ Policy P4 and saved UDP² Policy GP5 which, together and amongst other criteria, require development to avoid problems of environmental intrusion and loss of amenity

¹ Leeds Local Development Framework - Core Strategy, Development Plan Document, 2014.

² Leeds Unitary Development plan (Review 2006).

considering proximity to residential accommodation. It would similarly fail to accord with the National Planning Policy Framework's (the Framework) core planning principle of always seeking to secure a good standard of amenity for all existing occupants of land and buildings.

Character and appearance

12. The flue would project from the flank elevation of the building and would extend from a point approximately mid-way up the ground floor terminating just above the eaves. It would be a conspicuous feature and its metallic appearance would sit in contrast to the dark stone and slate materials of the host building. Its position adjacent to a cross roads means that the flue would be particularly prominent when viewed in both directions along South Parade as well as from the west along Middleton Road. The existing flue, although of a wider diameter, displays similar characteristics and these effects would not be significantly diminished by the narrower arrangement proposed.
13. There are no similar features in the immediate vicinity. Its height and situation would make it markedly more prominent than other existing paraphernalia such as air conditioning cassettes on the shop opposite. As a result it would appear incongruous and intrusive, harming the character and appearance of the host building and the area.
14. This aspect of the development would conflict with the design requirements of Core Strategy Policy P10 and saved UDP Policies GP5 and BD6. Although the appellant contends that infrastructure and the layout of the building prevents an internal location, there is no substantive evidence to suggest that the proposed location, design and appearance is the only feasible option. The development would therefore also conflict with saved UDP Policy BD4's requirement that mechanical plant should normally be contained within the envelope of the building. It would not accord with the Framework's approach of always seeking to secure high quality design which responds to local character.

Conclusion

15. For the above reasons, and having had regard to all other matters raised, the development would harm the living conditions of neighbouring residential occupiers and the character and appearance of the host building and the area, contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR