



Appeal Decision

Site visit made on 12 June 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16th July 2019

Appeal Ref: APP/B4215/W/19/3224878

5 Grandale Street, Rusholme, Manchester M14 5WS

- 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 Ahmad Jabar against the decision of Manchester City Council.
 - The application Ref 120861/FU/2018, dated 18 July 2018, was refused by notice dated 22 November 2018.
 - The development proposed is the Change of use from shop (Class A1) to hot food take-away (Class A5) with installation of flue to rear.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the development from the Council's Decision notice as the description noted on the appeal form and application form contains unnecessary detail.
3. I note that the appellant's application form and appeal form refer to the installation of a flue to the rear of the premises, however this component of the scheme and its effect towards the character and appearance of the property is not assessed in the Council's Officer Report. As the matter in dispute revolves around the living conditions as a result of the change of use, I have made my decision on this element only.

Main Issues

4. The main issue is the effect of the proposed change of use on the living conditions of surrounding residents, with particular regard to noise, disturbance, waste and increased vehicular and pedestrian traffic.

Reasons

5. The appeal property is part of a row of 5 terraced properties that were constructed as dwellings, however have since changed the use of the ground floor to retail use¹. The site lies close to, but outside the designated Rusholme District Centre which runs along both sides of Wilmslow Road. Whilst Grandale Street towards the junction with Wilmslow Road contains commercial uses, the surrounding streets consist of rows of terraced properties that are positioned behind each other with small alleyways running along the sides and rear of properties. The laneway to the rear is abutted by the rear of residential

¹ The Council state that the adjoining property does not appear to have consent to be utilised as a retail premises.

properties along Eva Street, with Ravendale Street running alongside the end of the terrace from Grandale Street.

6. Currently all of the premises along this terrace operate an A1 use and do not operate into the evening or have the requirement of extraction systems or a larger waste usage/collection as would a hot food takeaway. Whilst I appreciate that the site is close to the 'curry mile', these types of uses have been located along the main road, rather than within a residential area such as the appeal site.
7. I acknowledge comments that given the accessible location, that many of the customers would likely walk to the takeaway, however the concerns expressed by the Council and surrounding residents relate more to the noise caused by customers of an evening. Noise and disturbance are subjective issues to assess, as each neighbour will have different thresholds over what might harm their living conditions. In this particular scenario, the additional noise generated would not be constant and would vary between comings and goings of pedestrians and vehicles, car doors slamming, voices, and potentially evening deliveries and moving of bins, amongst others.
8. I have reviewed the noise report² which only relates to the potential noise impact from the proposed kitchen extraction equipment. There are no details as to where the survey locations were, and the height and type of equipment and the relationship to surrounding residential properties. The survey was also undertaken mid-week from 15:47 on Wednesday until 12:47 on Thursday October 24/25 2018. Whilst the methodology employed in terms of projecting proposed noise levels was undertaken with regard to the British Standard³ the measurements were taken mid-week, when noise is likely to be quite low given that adjoining uses within the terrace are not evening uses.
9. I do not agree that this survey represents the peak timings of when most noise could occur, and could have compared the noise to other hot food takeaways in the area which are typically busier of a weekend. The assessment is also based upon a very short and specific off-peak time period instead of being averaged over a number of dates and appears to only factor in the current noise levels and does not seek to understand the noise generated by customers of the premises. These scenarios represent significant omissions within the survey and in my opinion the report does not form a robust basis for a conclusion of overall noise impacts from the proposed use.
10. Another consideration with regards to living conditions revolves around odours and waste, where residents express that the change of use may lead to increased littering of the laneways and vermin due to the need for increased waste storage. The appellant states that the property will be cleaned twice daily, and I believe that proper management of waste facilities would prevent the spread of vermin, however the proposed use would likely increase the use of the laneways of an evening causing disturbance and potentially littering to the detriment of neighbouring residents which increases the harm caused.
11. Based on the evidence before me, I am of the view that the proposed scheme would have unacceptable impacts upon living conditions of surrounding residents, with particular regard to noise, disturbance, waste and increased

² Proposed Kitchen Extract Fan Noise Assessment, By Hepworth Acoustics, Dated 26 October 2018

³ BS 4142: 2014 'Methods for rating and assessing industrial and commercial sound.'

vehicular and pedestrian traffic. The scheme would therefore be contrary to Policy SP1 of the Manchester Core Strategy (CS) (which sets a number of key spatial principles, such as making a positive contribution to neighbourhoods of choice that makes a positive contribution to health, safety, and wellbeing of residents); Policy C10 of the CS (which amongst a number of criterion, seeks that new development that supports an evening economy not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance); Saved Policy DC10 of the Manchester City Council Unitary Development Plan (UDP) (which seeks that where food and drink uses are proposed, that consideration is given to the effect of the amenity of the neighbouring residents); and Saved Policy DC26 of the UDP (which seeks to understand the effect of new proposal as a result of uses that are generators of noise).

Other Matters

12. I acknowledge the benefits of the change of use put forward by the appellant which includes employment and training opportunities; the occupancy of a vacant unit; and evening activity. Whilst these weigh in favour of the development, they do not outweigh the harm I have identified with regards to the effect on living conditions.

Conclusion

13. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR