



Appeal Decision

Site visit made on 20 August 2019

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 13th September 2019

Appeal Ref: APP/B4215/W/19/3229095
98 Wilmslow Road, Manchester, M14 5AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Shahid Ali of Polish and Glow Ltd against the decision of Manchester City Council.
- The application Ref 121710/JO/2018, dated 30 October 2018, was refused by notice dated 20 December 2018.
- The application sought planning permission for a change of use from former exhaust/tyre fitting centre (Class B2) to café (Class A3) with associated elevational alterations, waste storage, cycle storage and car parking without complying with conditions attached to planning permission Ref 118025/FO/2017, dated 11 June 2018.
- The conditions in dispute are Nos 2 and 7 which state that:
 - 2) The development hereby approved shall be carried out in accordance with the following drawings and documents:
 - T698 P001 Location Plan
 - T698 P002 Existing Site Plan
 - T698 P008 Proposed Site Plan
 - T698 P016 Proposed Ground Floor
 - T698 P017 Proposed Elevations
 - Crime Impact Assessment 2016/0813/CIS/02
 - Planning Noise Impact Assessment by dBx Acoustics re 18022 dated 29/3/18
 - 7) The premises shall not be open outside the following hours:
 - 10am to 10.30pm Monday to Thursday,
 - 10am to 11.30pm Friday and Saturday, and
 - 11am to 10pm on a Sunday
- The reasons given for the conditions are:
 - 2) To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.
 - 7) In interests of residential amenity in order to reduce potential noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised plan was submitted with the appeal that shows cycle parking and a disabled parking space on the forecourt of the premises. These features were originally approved under application Ref 118025/FO/2017, albeit the position

of the cycle stands would be moved slightly. The appellant states that it was not their intention to remove these features, and the Council suggested the submission of such a revised plan in their Statement of Case. This change would be minor in nature and I do not consider that any party would be prejudiced by my acceptance of it. I have therefore determined the appeal based on the revised plan. This would overcome the Council's first reason for refusal, and I therefore do not propose to explore that matter in any further detail.

Application for Costs

3. An application for costs was made by Mr Shahid Ali of Polish and Glow Ltd against Manchester City Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect that varying the disputed conditions would have, firstly, on the living conditions of neighbouring occupiers with regard to noise and disturbance, secondly, on highway safety and, thirdly, on the character and appearance of the area.

Reasons

Noise and disturbance

5. The appeal premises is located on the corner of Wilmslow Road and Grandale Street. This section of Wilmslow Road is a busy area of the City that is well known for its Asian restaurants. In contrast, Grandale Street and the surrounding streets are predominantly residential and are characterised by traditional terraced housing.
6. The proposal would extend the approved opening hours from 22:30 to 00:00 on Mondays to Thursdays, from 23:30 to 01:00 on Fridays and Saturdays, and from 22:00 to 00:00 on Sundays. This would extend its operations into the late evening at times when many residents would be trying to sleep. Given the size of the premises, it would be likely to attract a large number of customers throughout the evening and into the night. This would generate noise through the arrival and departure of customers, raised voices outside, and increased vehicle noise. Given the site's corner location, Grandale Street is likely to be used as a place for customers to loiter and converse having left the premises, and as a route to leave the area. This would create a regular source of disturbance later in the evening at times when neighbouring residents could reasonably expect to be able to sleep. Whilst the site has good accessibility to public transport, customers would still be likely to use Grandale Street and the surrounding streets for parking given the limited availability of spaces on the forecourt. This would lead to increased vehicle noise later in the evening. Furthermore, any noise and disturbance generated at those times would be exacerbated by the fact that nearby properties front directly onto the street.
7. A Noise Impact Assessment has been submitted in support of the appeal. However, this only assesses the noise that would be generated from customers within the premises, including through potential noise break outs via the fire door and the glazed frontage, and from vehicles using the forecourt parking area. It does not address customers loitering outside or leaving via the surrounding streets.

8. It is asserted that many other premises along this section of Wilmslow Road have similar opening hours to those currently proposed. However, it is unclear to which premises this refers, and no specific details have been provided in this regard. I am therefore unable to assess any direct comparability to the current appeal proposal.
9. I acknowledge that the appeal premises is within Rusholme District Centre, which is well known for its restaurants and vibrancy. However, that does not alter my concerns in this particular case. Moreover, whilst the proposal would result in a small reduction in the seating area, that would be only a modest benefit in comparison to the harm I have identified above.
10. My attention has also been drawn to a recent allowed appeal Decision¹ at No 72 Wilmslow Road, a short distance to the north. However, that premises is a mid-terrace unit within a row that contains a number of restaurants/café's with external seating areas. I further note that neither the Council nor the Inspector objected to that proposal in terms of its effect on residential amenity. I have therefore come to my own view on the current appeal proposal.
11. For the above reasons, I conclude that the proposal would significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to Policy DM 1 of the Manchester Core Strategy (2012) and saved Policy DC26 of the Unitary Development Plan for the City of Manchester (1995). These policies seek to ensure, amongst other things, that new development does not significantly affect amenity.

Highway safety

12. The site layout approved under permission Ref 118025/FO/2017 included a secure refuse store within the forecourt area. The appeal proposal seeks to replace this with an internal refuse store at the rear of the building. This would be accessed via a door onto Grandale Street opposite to residential properties.
13. The Council express concern that the collection of waste from Grandale Street would cause disruption to the highway network. In this regard, if waste containers were left for collection in this location it could block the footway and force pedestrians to walk into the street between parked cars. Grandale Street is also relatively narrow, and the collection of waste from a large café such as this could result in the street being blocked for a number of minutes. Conversely, if waste containers were left on the forecourt for collection, this could have a negative effect on the appearance of the area.
14. Condition 11 to permission Ref 118025/FO/2017 requires that a scheme for the storage and disposal of refuse be submitted and approved. However, it is unclear whether that condition has been discharged. Whilst it is asserted that waste containers would be collected and returned to the store, there are also no details before me of any agreement with a waste contractor.
15. In these circumstances, it is unclear whether the relocation of the secure refuse store would prejudice highway safety or harm the appearance of the area. I am therefore unable to conclude whether there would be any unacceptable effects in this regard. However, as I am dismissing the appeal on other grounds, this matter is not decisive in this case.

¹ APP/B4215/W/18/3217729

Character and appearance

16. The proposal would introduce a new fence on top of the existing boundary wall facing Grandale Street. This would be constructed in laser-cut steel and would have a wave-like shape with an irregular pattern cut into the metal. This would result in an unusual appearance that would be distinct from any boundary treatment or other feature in the vicinity. In this regard, its shape and design would create an awkward feature within the street that would contrast sharply with its more traditional surroundings. The fencing would also be in a prominent position that would be visible in longer views from the north and from along Grandale Street. In my view, it would be an alien and discordant feature that would be out of keeping with its surroundings. Whilst the appellant states that such a fence is necessary in order to prevent littering, it is not clear whether other, less harmful, alternatives have been explored that could also serve this purpose.
17. At the appeal stage, it was suggested that this fencing could be removed from the proposal and a revised plan was provided to illustrate this. This alteration would be minor in nature and no party would be prejudiced by my acceptance of it. Such an alteration would address my concerns regarding the effect of the proposed fencing on the surrounding area. It would also address the Council's concerns in relation to the effect on sightlines at the junction between Wilmslow Road and Grandale Street. I shall therefore determine the appeal on this basis.
18. Accordingly, I conclude that the proposal would not harm the character and appearance of the area. It would therefore accord with Policies SP 1 and DM 1 of the Manchester Core Strategy (2012). These policies seek to ensure, amongst other things, that new development has regard to the character of the surrounding area.

Conclusion

19. For the reasons set out above, I conclude that the development would significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance. Whilst it would not harm the character and appearance of the area, and would have some modest economic benefits, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR