The Planning Inspectorate

Appeal Decision

Hearing Held on 10 September 2019

Site visit made on 10 September 2019

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Appeal Ref: APP/P4415/W/18/3219200
Land Adjacent to The Cutler PH, Woodsetts Road, North Anston, Rotherham S25 4EQ

- 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 Tesco Stores Limited against the decision of Rotherham Metropolitan Borough Council.
- The application Ref RB2015/0777, dated 4 June 2015, was refused by notice dated 22 June 2018.
- The development proposed is single storey side and rear extension to existing building to form A1 retail unit including ATM and associated works.

Decision

1. The appeal is allowed, and planning permission is granted for a single storey side and rear extension to existing building to form an A1 retail unit including ATM and associated works at The Cutler PH, Woodsetts Road, North Anston, Rotherham S25 4EQ in accordance with the terms of the application, Ref RB2015/0777 dated 4 June 2015, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. Revised plans were submitted before the Council determined the planning application. The appellant and Council agreed at the Hearing that the drawings under consideration are those listed in Condition 2 of the Schedule to this Decision. I have considered the appeal proposal on that basis as no party would be prejudiced or caused any injustice by my doing so.

3. The Council's officer report refers, amongst other things, to policies from the Rotherham Unitary Development Plan (UDP) and the then emerging Rotherham Sites and Policies document (SP). The decision notice refers to emerging SP Policy SP12. Since the Council's decision, the SP has been adopted and has replaced the UDP. Emerging policies SP12 and SP26 were re-numbered SP11 and SP23 in the adopted SP. The Rotherham Local Plan now comprises the Core Strategy (CS) and the SP. I have had regard to relevant development plan policies in considering this appeal.

Main Issues

4. It was agreed at the Hearing that the main issues in this appeal are the effect of the proposal on the users of the site with regard to safety and security, and on the living conditions of the occupiers of neighbouring residential properties with particular regard to noise, disturbance and anti-social behaviour.

Reasons

5. The Cutler public house is situated in a corner plot with vehicular access into the site from both Nursery Road to the west and Woodsetts Road to the south. The pub is accessed via a door on the south west corner of the building.

6. To the north of the building is an area of land which I understand from the evidence before me, including oral evidence given at the Hearing, has in the past been used as a beer garden. I observed at my site visit that this land is unkempt and overgrown and does not appear to be currently in use as a beer garden. Adjacent to this land, in the north east corner of the site and separated from the beer garden by a wall, is an area which I was told at the Hearing is the pub manager's garden. Both these areas bound the long rear garden of the residential property to the north at 1 Nursery Road. The pub manager's garden also bounds the back garden of the dwelling to the east at 1a Woodsetts Road.

7. The proposed retail unit would be built to the side and rear of the pub on part of both the existing beer garden and the manager's garden. The residual land, between the boundary of the proposed retail unit and the boundaries with No.1 and No.1a, is not within the appeal site. However, the appellant confirmed at the Hearing that there is provision in their lease agreement with the landowner for the erection of new fencing around part of the public house site, as shown on the proposed site layout plan.

8. The appeal proposal would result in more activity on the site than at present, both in terms of vehicular and pedestrian movements. However, the potential for conflict between pedestrians and vehicles could be minimised by marking out clear pedestrian routes through the site; this could be secured by condition.

9. If the residual land to the north of the appeal site were to be used in future as a beer garden, it would be separated from the pub by the proposed retail unit. I was informed at the Hearing that, at present, patrons can use the side door on the north elevation of the pub to access the beer garden. The proposed development would block this access, so patrons would have to walk in front of the retail unit between the beer garden and the pub. Nevertheless, whilst it is possible that patrons of the pub and customers of the shop may need to pass one another, I have no evidence that this is likely to cause conflict between different users of the overall site or lead to crime and disorder.

10. Surveillance of the residual land from within the pub would not be materially worsened as a result of the proposed development. Indeed, there would be far greater natural surveillance of this area during store opening hours as a result of the increase in comings and goings associated with the retail unit.

11. Whilst the proposed site layout plan indicates that the existing open railings along the boundary between the car park and the residual land would be replaced with a hit and miss timber fence, the appellant and Council agreed at the Hearing that the precise details of this boundary treatment could be controlled by condition, thereby retaining visual permeability into the area.

12. The proposed development would be likely to give rise to an increase in noise, resulting from external plant to the rear of the retail unit and from activity in the car park to the front. Additionally, the headlights of vehicles manoeuvring in the car park during the hours of darkness could cause a disturbance beyond the site boundaries. However, I note that the Council consider any harm in relation to these matters could be satisfactorily mitigated by conditions relating to the acoustic output of plant, the provision of acoustic and boundary screening and restrictions on hours of delivery and store opening. Based upon the evidence before me, I see no reason to take a different view.

13. Whilst the proposed ATM would be in operation 24 hours a day, I would not expect much night-time activity to be generated by such a facility in this locality. Consequently, it is unlikely to give rise to any significant noise and disturbance.

14. The residual land to the north of the proposed retail unit is outside the appeal site and not under the control of the appellant. Some of this land has in the past been used as a beer garden. It is possible it could be so used in the future, regardless of whether the proposed retail unit is built. There is the potential for noise and anti-social behaviour from such a use, which may disturb the neighbours. However, the use of this land is not a matter for consideration as part of the appeal before me. Any noise and anti-social behaviour which may arise from its future use would be a matter for the relevant authorities at that time, and for the owners of the pub to manage, using appropriate physical and surveillance measures, as is currently the case. In this regard, I find no harm arising from the appeal proposal. Indeed, the proposed erection of 2m high fencing around the boundaries of the residual land adjoining No.1 and No.1a would be an improvement over the current situation; this could be secured by condition.

15. For the reasons set out above I therefore conclude that, subject to appropriate conditions, the appeal proposal would not have a harmful effect on the users of the site with regard to safety and security, or on the living conditions of the occupiers of neighbouring residential properties with particular regard to noise, disturbance and anti-social behaviour. As such, the proposal accords with the design and amenity protection aims of CS Policy CS28 and SP Policy SP11.

Other Matters

16. Interested parties have raised wider concerns relating to the character and appearance of the proposed extension, the likely increase in traffic and resultant effect on highway safety, insufficient on-site parking which may lead to overspill parking on surrounding roads, accessibility, increase in litter in the area, light pollution from signs, whether there is a need for the proposed retail unit and its effect on local businesses, and the effect on local property prices.

17. The extension would have a simple form and be subservient to the host property, while the mono-pitched roof and front gable feature would reflect the design of the existing pub. I therefore find that the proposal would not harm the character and appearance of the area.

18. The proposal would result in an increase in vehicular movements to and from the site. However, based on the submitted evidence, most trips would be pass-by rather than primary trips and so would be likely to have little impact on the local network. Whilst there would be additional manoeuvres at the site

accesses, I have no substantive evidence that this would result in harm to highway or pedestrian safety. I note that the Council has raised no objection to the proposed level of parking provision and, based on the evidence before me, I see no reason to conclude the appeal proposal would result in off-site parking problems. The site is accessible by public transport, and in a location with residential development in easy walking distance. Therefore, I find no harm in relation to these matters.

19. I have no evidence that the proposal would result in a marked increase in litter in the locale. Associated signs would be subject to a separate consent process. The retail unit would comprise a neighbourhood shop located close to an established local centre, and I see no reason to disagree with the Council's view that the scheme accords with development plan policy in this regard. The planning system does not exist to protect private interests such as trade competition or the value of land or property. I therefore give these other matters little weight.

Conditions

20. I have considered the suggested conditions against the tests set out at paragraph 55 of the National Planning Policy Framework and advice in the Planning Practice Guidance, and I have amended them where necessary in order to meet these tests.

21. In the interests of certainty, I have imposed a condition specifying the relevant drawings. A condition relating to the materials to be used in the construction of the development is necessary in the interests of the character and appearance of the area.

22. I have imposed conditions relating to approval of and compliance with a Construction Method Statement and Delivery Management Plan in the interests of highway safety and to protect the living conditions of neighbours; for those reasons, it is necessary that the Construction Method Statement is secured by way of a pre-commencement condition.

23. Conditions restricting the opening and delivery hours are necessary to protect the living conditions of neighbours, as is a condition relating to noise generating plant. In the interests of both the character and appearance of the area and the living conditions of neighbours, I have imposed a condition in respect of boundary treatment, including acoustic fencing. Finally, a condition relating to the marking out of the car parking area, including pedestrian routes, is necessary in order to ensure a safe and secure environment.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

CL Humphrey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steve Edgeller	Edgeplan Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Chris Wilkins	Rotherham Metropolitan Borough Council
Rob Morrell	Rotherham Metropolitan Borough Council

INTERESTED PERSONS:

Avinder Bhuller	Local business owner
Diane Graham	Chair, Anston Parish Council
Councillor Clive Jepson	Councillor, Anston and Woodsetts Ward
Kenneth Keeton	Local resident
Mr & Mrs Widdison	Local residents

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
   2824 LP01 Site Location Plan
   2824 PL_15 Rev.G Proposed Site Layout
   2824 PL_16 Proposed Elevations
3. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; and storage of plant and materials used in constructing the development. The approved Construction Method Statement shall be adhered to throughout the construction period for the development hereby permitted.
4. Notwithstanding Condition 2, no development shall take place above ground level until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out and thereafter retained in accordance with the approved details / samples.
5. Notwithstanding Condition 2, no development shall take place above ground level until a plan setting out details of the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The plan shall include details of an acoustic fence along the southern boundary of 1 Nursery Road, along the western boundary of 1a Woodsetts Road and along the northern boundary of the A1 retail unit hereby permitted. It shall also include details of boundary treatment to the east of the car parking spaces located to the north of the A1 retail unit hereby permitted. The development hereby permitted shall not be brought into use until the boundary treatment has been carried out in accordance with the approved details. Thereafter, the boundary treatment shall be retained in accordance with the approved details.
6. Notwithstanding Condition 2, the development hereby permitted shall not be brought into use until car parking spaces and pedestrian routes through the car park have been marked out in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority. Thereafter, the car parking spaces and pedestrian routes through the car park shall be retained in accordance with the approved details.
7. The development hereby permitted shall not be brought into use until a Delivery Management Plan has been submitted to and approved in writing by the local planning authority. Thereafter, the approved Delivery Management Plan shall be implemented and adhered to at all times.

8. Notwithstanding Condition 2, no noise generating plant, including mechanical ventilation, refrigeration, air conditioning, extraction plant, chillers and free chillers, shall be installed in any part of the development hereby permitted until details have been submitted to and approved in writing by the local planning authority. The details shall include a BS4142:2014 noise assessment and 1/3 octave frequency analysis with appropriate corrections for acoustic features, and details of any mitigation measures, physical or operational, necessary to ensure that the source sound level (expressed as rating level) does not exceed 5dB above the measured background noise level. The plant shall be installed and operated thereafter in accordance with the approved details.
9. The A1 retail unit hereby permitted shall only be open to customers between the hours of 07:00 – 23:00 Mondays to Sundays.
10. Deliveries shall be taken at or despatched from the A1 retail unit hereby permitted only between the hours of 08:00 – 20:00 Mondays to Sundays.

END OF SCHEDULE