
Appeal Decision

Site visit made on 17 September 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/H1033/W/19/3232339

Delightz, 72 Station Road, Hadfield, Glossop SK13 1DL

- 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 N Hussain against the decision of High Peak Borough Council.
 - The application Ref HPK/2018/0456, dated 4 September 2018, was refused by notice dated 7 January 2019.
 - The development proposed is the retention of change of use from shop (A1) to hot food takeaway (A5) including the extraction unit to the rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on the living conditions of nearby occupiers.

Reasons

Character and Appearance

3. The appeal site comprises a mid-terraced, two storey property located on Station Road. The surrounding area comprises a mix of commercial properties, including other takeaways, and residential properties. The ground floor of the appeal property was formerly a shop (A1 use) however has since converted to a hot food takeaway (A5 use). The upper floor is occupied by a residential flat. The conversion has involved the addition of a flue to the rear of the property. The Council have raised no concerns with the principle of the change of use.
4. The flue is only visible from the rear of the properties and not from the public realm to the front of the appeal site. However, its size, colour and positioning result in a large and highly visible structure which is prominent from the rear windows and gardens of the surrounding properties.
5. The Appellant has offered to paint the flue a darker colour. I consider that this may have the potential to suitably mitigate the visual impact of the flue from neighbouring views and minimise its visual incongruity and dominance.

However, in the absence of full details for this I am unable to satisfactorily conclude that this would mitigate the visual harm to an acceptable degree.

6. The flue is partially screened from some of the neighbouring properties by existing trees and vegetation on the side boundary of the appeal site. Whilst this serves to minimise its visual impact from some of the surrounding properties, including No 70, it remains in proximity to a number of windows of the properties at Nos 72a and 74 where it would be dominant and visually intrusive in its current form.
7. Whilst the flue is not visible from the street, in its current form it represents an incongruous feature amongst the domestic rear gardens of surrounding properties. Consequently, without further details of the potential changes to the appearance of the flue, it fails to comply with the provisions of Policy EQ6 of the High Peak Local Plan (2016) (Local Plan). This seeks to ensure that all development is well designed and is of a high quality, which contributes to local distinctiveness, amongst other things. It would also fail to comply with Section 12 of the National Planning Policy Framework (2019) which aims for high quality design.

Living Conditions

8. The flue is positioned in proximity to the rear of residential properties, the closest being Nos 70, 72, 72A and 74. The flue is positioned to angle away from the properties before presenting a vertical stack.
9. I have considered the technical details provided by the Appellant and note that the flue has been fitted with two silencers and will be regularly maintained. However, I find that this information is not sufficient to demonstrate that there would not be unacceptable impacts on the occupiers of nearby properties in terms of noise or odour. The information before me lacks specific detail including background noise levels, full noise details and other site-specific considerations. Further tests would be required to fully demonstrate that the flue could be used in a way which would sufficiently protect the living conditions of the neighbours and without this level of detail before me I must take a precautionary approach.
10. I note the Appellant's suggested condition, however I have limited evidence before me to demonstrate that these levels are realistic or achievable and accordingly the use of the condition would not be appropriate without the supporting evidence.
11. I have had regard to the other examples of flues provided in Appendix E. However, I have not been provided with the full circumstances behind these or the nature of their surroundings in order to determine whether they are fully comparable to the appeal scheme. Accordingly, I give these examples limited weight.
12. In the absence of more detailed site-specific investigations into the noise and odour potential for the flue, I am unable to conclude with any assurance that there would not be a harmful impact on the living conditions of nearby occupiers as a result of the proximity of the flue to the neighbouring properties. I therefore find that it fails to accord with Policies EQ6 and EQ10 of the Local Plan. These require new development to avoid unacceptable effects on adjacent

development and avoid air pollution and harm to amenity, amongst other things.

Other Matters

13. I note that the A5 use generates employment through the reuse of the property as well as benefits along the supply chain and is located within an established town centre where there are other established hot food takeaways. I also acknowledge the reasons for the change of use to A5. However, these considerations are not sufficient to outweigh the harm identified in respect of the flue.
14. A local objection has been received concerning odour from the bins, in addition to the above matters. However, as this would not alter my findings in relation to the main issue it is not necessary for me to conclude on this matter.

Conclusion

15. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR