
Appeal Decision

Site visit made on 24 September 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/M4320/W/19/3232960
79 Coronation Road, Crosby L23 5RE

- 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 Miss Sophie Weymouth against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/00639, dated 28 March 2019, was refused by notice dated 4 July 2019.
 - The development proposed is described as: 'Internal and external decorations. Change of use from Retail (A1) to Bar (A4)'.
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Decision

1. The appeal is allowed and planning permission is granted for internal and external decorations, change of use from retail (A1) to bar (A4) at 79 Coronation Road, Crosby L23 5RE in accordance with the terms of the application, Ref DC/2019/00639, dated 28 March 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. At the time of my visit, the appeal premises contained a bar, seating, toilets and a small kitchen, in a layout which appeared consistent with that shown on the submitted Ground Floor Plan, dated 01/04/2019. It appears that the premises have, at times, been used as a bar under temporary licences. However, that does not mean that the permanent use applied for has necessarily commenced. In any event, and notwithstanding the works that have taken place, I have considered the appeal as submitted, for a proposed change of use, and on the basis of the submitted documents and drawings.
3. The appellant's appeal statement refers to the Council's decision to refuse planning permission as being unreasonable. However, no formal application for costs has been made.

Main Issue

4. The application was refused by the Council's planning committee, against an officer recommendation to grant planning permission. However, the Council did not provide an appeal statement within the statutory deadlines. From all that I have read, including the planning committee minutes and the Council's reason for refusal, I consider the main issue to be the effect of the proposed development on the living conditions of the occupants of nearby residential properties with regard to noise and disturbance.

Reasons

5. The appeal relates to a ground floor commercial unit within a parade of other commercial properties on Coronation Road, within Crosby town centre. The ground and first floors of the adjoining property, 81 Coronation Road, are currently in use as a bar. There are residential properties outside the town centre boundaries close to the site, including flats at Sandalwood, just beyond No 81 which, I am advised, are occupied by older people. However, Coronation Road in the immediate vicinity of the site is predominantly commercial in character and contains a number of existing uses which are likely to be open in the evenings, including restaurants, a pizza takeaway, a convenience store and a Bargain Booze off-licence. As a result, the part of Coronation Road in the vicinity of the site is likely to be subject to some degree of background noise from those premises, and from vehicular and pedestrian activity associated with them, on an evening at present.
6. The proposed opening hours of the bar, until 11pm, would be similar to those of other nearby evening uses, and could be controlled by planning condition. No outdoor seating area is proposed to the front, and the playing of live or amplified music within external areas could also be controlled by condition. The bar would result in some external activity on an evening, with customers coming and going to and from the premises. However, given its relatively limited size, any such increase would also be limited, and would not have a significant further effect on the living conditions of nearby residents over and above that arising from the existing evening uses nearby, including the neighbouring bar, which is closer to the nearest neighbouring dwellings at Sandalwood, and which has an external seating area to the front.
7. Therefore, even when taken cumulatively with those existing evening uses, on the basis of the evidence before me I consider that the proposed development would not result in a significant increase in evening activity, or in the levels of noise and disturbance experienced by the occupants of Sandalwood or other nearby residential properties on Coronation Road or to the rear of the site, compared with the existing situation.
8. There is an existing first floor flat above the appeal premises. I have not been provided with a noise survey relating to that flat. However, it is adjacent to an existing bar, and in an area with other late-night opening uses, and thus is likely to experience some degree of background noise on an evening at present. The appellant has agreed to provide acoustic insulation between the bar and the first floor flat, and indicated some measures that such a scheme might include, suggesting a condition requiring full details to be approved by the Council. I am satisfied that such a condition would be sufficient in this case, and would allow the Council to request such information as it considered necessary to assess existing and likely noise levels and ensure that appropriate mitigation measures were put in place.
9. Given the small scale of the premises, and subject to conditions requiring the approval of details of any extraction or ventilation equipment, I am satisfied that the proposed use would not harm the living conditions of occupants of the first floor flat, or of other nearby residents with regard to noise or odour from such equipment.
10. Given the relatively small size of the bar, deliveries associated with it would not be of such frequency or duration as to result in significant levels of noise or

disturbance for nearby residents over and above those associated with the site's lawful use as a retail unit.

11. For the reasons given, I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of nearby residential properties with regard to noise or disturbance. The proposal would therefore not conflict with Policy EQ10 1.a. or EQ10 1.c of A Local Plan for Sefton (the Local Plan) which, amongst other things state that proposals for food and drink uses will only be permitted where they would not cause significant harm to local amenity, and where any external ventilation or extractor systems do not harm the residential amenity of neighbouring properties.

Other Matters

12. The site is not in a primary shopping area or designated retail frontage in the town centre and, whilst there are restaurants and cafes nearby, and a bar next door, I observed that the parade along this part of Coronation Road also includes a number of A1 retail units. Having regard to that overall mix of uses within the parade, changing the appeal premises from A1 use to a further bar would not result in an unacceptable grouping of similar uses or cause harm to the character of the area or the vitality or viability of the town centre.
13. The parade includes a number of other units likely to sell alcohol. However, I have nothing before me by way of substantive evidence to suggest that such premises have given rise to public health problems in the area, or that a further bar in this location would have adverse implications in that respect. Nor have I reason to conclude that the bar would have adverse implications for users of a local youth centre, since the sale of alcohol to under-18s would be illegal in any event.
14. Therefore, having regard to the criteria in Local Plan Policy EQ10 1.b., the proposed development would not result in an unacceptable grouping of similar uses or conflict with that policy.
15. I have been referred to traffic levels in the vicinity of the site. However, on the basis of the evidence before me I have no reason to conclude that the vehicle movements associated with the proposed bar would be materially greater than those associated with the site's lawful retail use. There is a delivery bay on the road immediately in front of the site and parking restrictions on parts of Coronation Road. However, I also observed numerous areas of on-street parking elsewhere on Coronation Road nearby, as well as a public pay and display car park on The Green, close to the site, which would be available for use by customers. Any breach of parking restrictions in the vicinity of the site would be a matter for enforcement by the relevant authorities. Therefore, and as the Council has not raised any objection to the development on those grounds, I conclude that the proposal would not have an adverse effect on the safety or convenience of highway users with regard to parking, deliveries or traffic, or result in higher levels of air pollution compared to the existing situation.
16. The Council's Police Architectural Liaison Officer advised that they do not have any concerns about similar businesses in the vicinity, or any substantive concerns that the proposed bar could cause additional crime or anti-social behaviour. References to a disturbance at the premises, and to verbal abuse of

nearby residents appear to have related to a particular individual, the appellant's former business partner, rather than having arisen from any of the existing evening businesses. In the absence of any substantive evidence to the contrary, and as the appellant has expressed an intention to incorporate various security measures as part of the development, I have no reason to conclude that the proposal would result in an increase in crime or anti-social behaviour.

17. I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
18. Access to the appeal premises is via two steps, and there is a further step inside the property between the bar area and the toilets. As a result, the premises and toilet facilities are not fully accessible to wheelchair users. However, the appeal relates to an existing building with an existing lawful commercial retail use. Those existing access arrangements would therefore apply to customers of such a use at present.
19. The appellant has confirmed that portable ramps would be available upon request to allow wheelchair users to enter the building and gain access to the toilet facilities. The toilets would not be fully wheelchair-accessible. However, given the limited size of the building and its existing lawful commercial use, I consider that the measures proposed by the appellant represent reasonable adjustments which would facilitate access for disabled people and those with mobility difficulties, and which are proportionate to the scale and nature of the building and the proposed development. Subject to a condition requiring full details of such measures to be approved by the Council and thus secured as part of the proposed use, I therefore conclude that the proposal would be acceptable in that regard.
20. My attention has been drawn to an application refused by the Council for a bar on South Road. However, the evidence before me indicates that, as well as being located elsewhere in the district, that application was refused partly on the grounds that it would result in an unacceptable cluster of non-retail uses in a primary shopping area, a designation which does not apply to the appeal site. Therefore, the circumstances in that case were not directly comparable to those in the current appeal. I have also been referred to applications made by other business owners nearby. However, on the basis of the very limited information before me, I cannot be certain that the circumstances in those cases were directly comparable to the current appeal proposal. In any event, I have determined the appeal on its own planning merits, and having regard to the particular context and circumstances of the appeal site.
21. Matters relating to electrical and fire safety certification are covered under separate legislation, and do not represent a justification for withholding planning permission. Any issue of non-compliance with planning conditions would be a matter for the Council's enforcement section. Planning is concerned with land use in the public interest, and the protection of private interests, such as property values, is not a consideration to which I give weight.

Conditions

22. I have considered the conditions suggested by the Council and the appellant in the light of the tests set out in the National Planning Policy Framework, and have made some amendments to the format and wording of those I have included, for precision.
23. I include a condition specifying the approved plans, for certainty.
24. A condition requiring a scheme of sound insulation between the premises and the first floor flat is necessary to protect the living conditions of neighbouring occupants. As such a condition would allow the Council to require an acoustic survey to ascertain existing noise levels in that flat as a basis for assessing the extent of any sound insulation required, I am satisfied that it need not specify a particular sound level to be achieved in this instance. Conditions restricting opening hours and requiring details of any extraction or ventilation equipment are also necessary to protect the living conditions of the occupants of nearby residential properties.
25. A condition preventing the playing of live or amplified music is necessary insofar as it relates to the external areas associated with the premises. However, given the distance between the site and other nearby residential properties, and as sound transference to the adjoining first floor flat could be mitigated through an appropriate scheme of acoustic mitigation, extending such a restriction to the inside of the premises is not necessary.
26. A condition requiring the approval and implementation of measures to facilitate access to the building and toilet facilities for disabled people is necessary for the reasons set out above.

Conclusion

27. For the reasons given, and having regard to all other matters raised, the appeal is allowed.

Jillian Rann
INSPECTOR

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 and documents: Red line boundary/location plan dated 05/06/2019; Gambinos Bar and Ground Floor Plan dated 01/04/2019; email from Sophie Weymouth to Carol Gallagher, Sefton Council, sent 17 June 2019.
- 3) The A4 use hereby permitted shall not commence until a scheme of acoustic insulation, to protect the occupants of the first floor flat at 79a Coronation Road from noise from the permitted use, has been submitted to and approved in writing by the local planning authority, and until the scheme has been fully implemented and completed in accordance with the details thereby approved. Any scheme of acoustic insulation shall thereafter be retained in accordance with the details thereby approved for the lifetime of the development.
- 4) No hot food shall be prepared on the premises in association with the permitted use until a scheme for the installation of equipment to control the emission of fumes and odours from the premises has been submitted to and approved in writing by the local planning authority.

The scheme shall include details of the operation and maintenance of any such equipment, and of measures to control noise and minimise structure-borne sound from any proposed equipment.

No hot food shall be prepared on the premises in association with the permitted use until the scheme has been fully implemented and completed in accordance with the details thereby approved. Any such equipment shall thereafter be retained, operated and maintained in accordance with the details thereby approved for the lifetime of the development.

- 5) No external plant and equipment other than that installed in full compliance with Condition 4 of this permission shall be installed on the premises until details of that equipment, including a scheme of noise control measures, have been submitted to and approved in writing by the local planning authority. Any such equipment shall thereafter be installed, operated and maintained in accordance with the details thereby approved.
- 6) The premises shall not be open to customers outside the hours of 1100 to 2300 Monday to Sunday.
- 7) No live music or amplified music shall be played, and no live entertainment shall take place, within any external areas associated with the premises.
- 8) The A4 use hereby permitted shall not commence until a scheme setting out how provision shall be made for people with disabilities and/or mobility difficulties to gain access to the premises from the street and to access toilet facilities have been submitted to and approved in writing by the local planning authority. Any measures thereby approved shall be implemented before the A4 use hereby permitted commences, and the use shall thereafter be operated in accordance with the details thereby approved.