
Appeal Decision

Site visit made on 24 September 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Ref: APP/N4720/W/19/3233799

82 Otley Road, Guiseley, Leeds LS20 8BH

- 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 James Dale of The Hoptimist against the decision of Leeds City Council.
 - The application Ref 19/01984/FU, dated 29 March 2019, was refused by notice dated 17 June 2019.
 - The development proposed is described as "Proposed Change of Use from A1 to A4 for Existing Shop Unit."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regards to noise.

Reasons

3. The appeal site is a ground floor premises which sits within a Secondary Shopping Frontage as identified on the Guiseley Otley Road Area map. The site forms part of a row of commercial properties. The upper floors of these buildings are in residential use with other residential properties located in the immediate locality.
4. The proposal would be the only A4 use in the row of properties. Noise levels and general activities associated with an A4 use would commonly be expected to be higher than the existing commercial properties in the row, particularly at evening time. Whilst there are some bars and restaurants located in the wider area, the area immediately surrounding the appeal site is a mix of residential and commercial shops.
5. The proposal would introduce a use which would significantly increase activity in the area, when noise levels are expected to be low. The coming and goings of customers would create noise and disturbance that would have a detrimental effect on the living conditions of occupiers of residential properties in the area.
6. I have had regard to the appellants statement of case which indicates that the customers will use nearby public transport, the target market for the proposed use would be a mature clientele, the premises would only play background music and CCTV would monitor internal and external areas in line with the premises licence granted by the Council. Nevertheless, these matters would not

- outweigh the adverse effect on the living conditions of neighbouring residential occupiers from the noise and disturbance that would be created from customers entering and leaving the premises, particularly in the evening.
7. It has been indicated that the residential properties have appropriate mitigation through Building Regulations Approval Document E. There is however insufficient evidence before me to give me confidence that all the properties in the area have sufficient mitigation from the noise that would arise from the proposal.
 8. I note that paragraph 1.2.3 of the Leeds Site Allocation Plan Volume 2 – 1 Aireborough Written Statement indicates that Secondary Frontage Areas are areas where a wider mix of uses is permitted including restaurants, cafes and pubs. However, I still find that the proposal would have a harmful effect on the living conditions of neighbouring occupiers with regards to noise. The appellant has also indicated disappointment with regards to Officers from the Council. This matter does not alter my findings on the main issue.
 9. Accordingly, I find that the proposal would have a harmful effect on the living conditions of occupiers of neighbouring properties with regards to noise. The proposal would be contrary to Policy GP5 of the Leeds Unitary Development Plan Review 2006 which seeks development proposals to avoid loss of amenity.

Conclusion

10. For the reasons given above I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR