
Appeal Decision

Site visit made on 21 October 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

Appeal Ref: APP/J0350/W/19/3235059

4 Park Street, Slough SL1 1PD

- 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 Mekki against the decision of Slough Borough Council.
 - The application Ref: P/01933/029, dated 13 November 2018 was refused by notice dated 18 July 2019.
 - The development was originally described as a "retrospective planning application for the current timber shisha structure."
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Decision

1. The appeal is allowed and planning permission is granted for alterations to the frontage and the erection of a timber structure to create a shisha lounge (sui generis) at 4 Park Street, Slough SL1 1PD in accordance with the terms of the application, Ref P/01933/029, dated 13 November 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Scale 1:1250, 003761 Rev-B Previous & Current Site Plans dated 23/06/2017, 004107 Current Roof Plan dated 14/01/2019, 004109 Current Floor Plans & Elevations dated 14/01/2019, 004109 Previous Floor Plans, Elevations & Section dated 14/01/2019.
 - 2) The premises shall only be open for customers between the following hours: 12:00 to 22:00 Mondays to Sundays.

Procedural Matters

2. It is apparent from the appeal submissions that a shisha establishment is already in operation. The use has, therefore, commenced and so I have dealt with this aspect of the development on a retrospective basis. The development that has been carried out, though, is not the same as on the submitted plans in relation to the external appearance of the associated structure. I have based my decision on the plans that are before me and, as such, I have treated the external appearance of the development 'as proposed'. Whilst I am also aware that the Council has undertaken enforcement proceedings concerning the existing establishment, that is not for my consideration under this appeal.
3. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises alterations to the

frontage and the erection of a timber structure to create a shisha lounge (*sui generis*), as is set out in the Council's decision notice. This is also reflected in the description which is in my decision paragraph, excluding the superfluous elements.

Main Issues

4. The main issues are the effect of the development on (i) the living conditions of the occupiers of residential properties, in particular 9 to 21 (odds) Park Street, by way of noise and disturbance; and (ii) anti-social behaviour and crime prevention.

Reasons

Living Conditions

5. The site lies on a busy side street which is close to the main pedestrianised shopping street in the town centre. It is found at the end of a row of units and on the opposite side of the street lies the side wall of a large retail premises and offices. Its surroundings are predominantly commercial with typical town centre uses. Nos 9 to 21 forms a separate terrace of properties, which lie further down Park Street and on the opposite side. The nearest of these properties, No 9, lies approximately 20 metres from the site. It contains a barber's shop at ground floor level. The remainder of this terrace is predominantly residential in nature.
6. The Council are concerned that the use results in increased noise and disturbance from customers entering and leaving the establishment. This takes place via a single access point opposite the side of the retail premises and the offices, though, and is noticeably offset from Nos 9 to 21. Moreover, with the location of these residential properties close to the centre of the town, they are found in an area which is characterised by a level of associated noise from people using the town centre facilities, as was apparent from my site visit.
7. In this context of where these residential properties are found and their relationship to the site, any such resultant increase in noise and disturbance arising from the development is unlikely to be significant. This is subject to the control of opening hours to customers to limit the potential for undue disturbance during the quieter times in the late evening and night. The Council has suggested that, in the event that the appeal is allowed, the establishment should close at 10pm to customers and I have also had regard to the appellant's comment on this matter. Closing to customers at this time would not be unreasonable in order to adequately protect the living conditions and given the type of the use.
8. The development also does not cause undue effects on living conditions as regards smoke and fumes, especially as there are no outside areas on Park Street in association with the use. The potential for litter is also limited with the nature of the use.
9. The Council's Statement also considers that the use has a harmful effect on the amenity of neighbouring commercial occupants. However, as the use itself is a business, attracts customers and is in a town centre, it is complimentary to this commercial environment. Whether or not other use(s) would be more compatible with regards to living conditions, or amenity, does not have a

significant bearing on my decision because the development is to be considered on its own merits.

10. I conclude that the development does not have an unacceptable effect on the living conditions of the occupiers of residential properties, in particular Nos 9 to 21 (odds), by way of noise and disturbance. Accordingly, it complies with Core Policy 8 of the Slough Local Development Framework Core Strategy 2006 – 2026 Development Plan Document (2008) (CS) which states that development shall not give rise to unacceptable levels of pollution including noise, amongst other considerations.

Anti-Social Behaviour

11. The site lies within an area that is designated under a Public Spaces Protection Order under the Anti-Social Behaviour, Crime and Policing Act (2014). This is in place on Slough High Street and the surrounding roads, including Park Street. A sign indicating the presence of the PSPO is found on a lamp post located close by on Park Street. The existing structure itself contains what appear to be small CCTV cameras.
12. The row of units where the site lies also contains a taxi firm and various hot food related uses. The Council's evidence has referred to anti-social behaviour caused by the activities of groups hanging around the shisha lounge, the taxi firm and a chicken shop. A number of crime related matters have also been raised.
13. It is not clear from the evidence before me, though, whether or not these issues could be attributed to the use that is the subject of this appeal, either on its own or in combination with the other uses in the row of units. Even though the Council consider that it has been possible to judge the associated levels of anti-social behaviour because the use is already in operation, the evidence is of a more general nature concerning the evening and night time uses along Park Street or broader concerns expressed about shisha lounges. In addition, I am not persuaded that the presence of groups outside the site and along Park Street provides a sufficient linkage to the use in order for me to be satisfied that it unacceptably impacts on the wider community in this regard.
14. Although the Council are of the view that the development does not manage the risk of an increase in anti-social behaviour, it provides indoor seating and facilities. Hence, this does not suggest that it unduly contributes to what may be occurring outside on Park Street and the wider High Street area, notwithstanding that there is also not substantive evidence which demonstrates that it has actively reduced the levels of these activities.
15. In terms of surveillance, as I have set out, the development does not have external areas on Park Street and only has one access point. As it fronts onto the street, it is also well enclosed. Due to the nature of the use, alcohol is not served and it has a community based function. The restriction on the opening hours would further limit the potential for the development to contribute to the Council's concerns.
16. On the balance of the evidence before me, I conclude that the development does not have an unacceptable effect on anti-social behaviour and crime prevention. Thus, it complies with Core Policy 12 of the CS which states that activities which have the potential to create anti-social behaviour will be

managed in order to reduce the risk of such behaviour and the impact upon the wider community. It also complies with Saved Policy EN5 of the Local Plan for Slough (2004) that seeks to ensure that all development schemes should be designed so as to reduce the potential for criminal activity and anti-social behaviour, in particular as the development accords with the relevant criteria under this policy for the reasons above.

Conditions

17. I have imposed a condition concerning the approved plans, as the development is not complete as regards its external appearance, for the purposes of certainty. In the interests of protecting the living conditions of the nearest residential properties by minimising noise and disturbance, I have imposed a condition restricting the hours of opening. I have not imposed a condition for the usual time limit for implementation, as the use has already commenced.

Conclusion

18. For the reasons set out above, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR