



Appeal Decision

Site visit made on 22 July 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

Appeal Ref: APP/W2465/W/19/3228469

The Real Ale Classroom, 22 Allandale Road, Leicester LE2 2DA

- 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. S. Tabernor, Real Ale Classroom against the decision of Leicester City Council.
- The application Ref 20181708, dated 27 July 2018, was refused by notice dated 12 November 2018.
- The development proposed is for the change of use from residential amenity space (Class C3) to external seating area at rear of drinking establishment (Class A4); construction of smoking shelter; alterations.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from residential amenity space (Class C3) to external seating area at rear of drinking establishment (Class A4); construction of smoking shelter; alterations at The Real Ale Classroom, 22 Allandale Road, Leicester LE2 2DA in accordance with the terms of the application, Ref 20181708, dated 27 July 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than one year from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans; location plan (Ref 2135-2-701), proposed site plan (Ref.2135-2-711A) and, proposed smoking shelter (Ref 2135-2-610).
 - 3) The use shall not be carried on outside the hours of 10:00 to 21:00 on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays and 10:00 to 22:00 hours on Fridays and Saturdays.
 - 4) The use hereby permitted shall be for a limited period being the period of 2 years from the date of this decision. The use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
 - 5) There shall be no outdoor live and/or amplified music or voice to the rear of the drinking establishment.
 - 6) Prior to the use of the external seating area and smoking shelter hereby permitted, details of a safe means of pedestrian access to the garden shall be

submitted to and approved in writing by the local planning authority. The access shall be provided in accordance with the approved details.

Procedural Matters

2. For clarity, this decision is based on the plans made available to the local planning authority prior to their decision to refuse planning permission. This includes updated plans and also details of the relocated smoking shelter that were not originally submitted with the planning application but in response to observations made by the planning officer. I do not consider that these would prejudice the interests of other parties. The description of the development above is different to that set out on the planning application form. The appellant has agreed to the change.

Main Issues

3. This is the impact of the proposal on the living conditions of nearby residents in respect of noise and disturbance, privacy and outdoor amenity space.

Reasons

Living conditions

4. The appeal site is located in the Allandale Road/Francis Street Local Shopping Centre. This is a small and attractive centre comprising a number of niche businesses including retail, restaurants and cafes as well as other services. The Real Ale Classroom is a micro-pub. No 22 forms part of a terrace of 3 storey properties on the north-eastern side of Allandale Road. The upper floors of Nos 22 and 24 Allandale Road are in use as flats and the rear gardens serve as the amenity space. In the case of the appeal site, however, the rear garden is unused. The rear garden of No 22 and of nearby properties are at a slightly lower level than the buildings and slope gently downwards.
5. At the end of the gardens of the terrace is an area of land including a small watercourse, Evington brook. A dense area of mature trees lies alongside the banks of the brook. Beyond this area is Broadway Road, part of an established residential area. In addition to the change of use some minor associated works are proposed including new boundary treatments, relocation of the smoking shelter and provision of a bin storage enclosure.
6. The main concerns are the loss of amenity space to No 22 Allandale Road and the potential for noise pollution and general disturbance to Nos 22 and 24 Allandale Road as well as other nearby residential properties such as those on Broadway Road.
7. I note that the occupiers of the upper floors of both Nos 22 and 24 Allandale Road have expressed support for the proposal. Most of the amenity space at No 22 is currently unused and, apart from bin storage and a smoking area for users of the pub, it provides little benefit for the present or future occupiers. The proposed change of use would enable the occupant of No 22 to use the rear garden, albeit on a shared basis which be a significant improvement on the current position. The levels of the site also fall away which means that concerns of a loss of privacy of the living accommodation on the upper floors at No 22 would be significantly reduced. I consider, therefore, that the proposed change of use in this particular case is acceptable on this point.

8. The occupier of the flat at No 24 has questioned the impact of the relocated smoking area and potential for smoke to drift towards open windows. I note that the shelter will have a panel back so that any fully open side will be at least 2.5 m from the rear walls of No 24.
9. The local planning authority have raised potential noise pollution and general disturbance on nearby residents as a matter of concern. I note that the appellant indicates that management arrangements could be put in place. I also note that none of the residents consulted on the proposal have objected on any grounds including potential noise pollution or other disturbance apart from the observation regarding smoke referred to above.
10. The Real Ale Classroom is an established business within the small but successful local centre (as defined in the development plan). Since other businesses in the centre already utilise space to the rear and, given the small size of the garden area, I do not consider that the proposal would amount to an over-intensification of the drinking establishment.
11. I therefore conclude that the change of use would not cause harm to the living conditions of neighbours including those in the wider area in respect of noise and disturbance, privacy and outdoor amenity space. In arriving at this point, I consider that the proposal is consistent with saved Policy RO3 of the City of Leicester Local Plan (LP, 2006) and CS11 of the Leicester City Core Strategy (2014) which seek to steer investment into the defined hierarchy of centres and would not inhibit the use of the upper floors for residential purposes. The proposal also takes account of concerns over impact on residential amenity consistent with saved LP Policy PS10.

Other Matters

12. The proposed change of use to a pub garden attached to the Real Ale Classroom would lead to a significant improvement in its appearance which will be of benefit to the people who view the land from adjacent properties. This includes the small number of upper floors in residential use, and the nearby restaurant and tea shop that already possess outdoor terraces to the rear. I note that the residents of the upper floors at both Nos 22 and 24 and the operators of the restaurant and tea shop have expressed support for the proposal. Therefore, I consider the proposal would have a positive impact on the character and appearance of the area.
13. The appeal site lies in flood zone 2. However, I am satisfied the minor nature of the proposed development will have no impact on this.
14. Due to the changing levels the current access to the garden area is inadequate for the proposed use and would need improvement. I am satisfied this matter can be satisfactorily dealt with by way of a condition.

Conclusion and conditions

15. I have considered conditions in accordance with the National Planning Policy Framework and the PPG, amending where necessary in the interests of precision. I conclude that the change of use would be acceptable subject to a temporary period of two years. Although the Council have suggested a one-year period, two years would be acceptable taking account of the changes needed to provide the facility and to assess any negative impacts of the scheme over a longer period of time.

16. As well as the condition relating to safe access and temporary use, I have imposed conditions relating to outdoor live and/or amplified music or voice, and hours of use. These are required to ensure that the effect on nearby residents would be limited. The conditions are also necessary to ensure effective and ongoing management of the garden area.
17. Taking all of the above matters into account I conclude that temporary planning permission should be granted subject to conditions for the change of use to an external seating area at rear of the Real Ale Classroom (Class A4), construction of smoking shelter and associated alterations.

David Carter

INSPECTOR