



Appeal Decision

Site visit made on 5 November 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/B4215/W/19/3231384

Victoria Inn, 196 Burnage Lane, Manchester M19 1FL

- 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 John Whitehead of Punch Taverns Plc against the decision of Manchester City Council.
 - The application Ref 122593/FO/2019, dated 4 February 2019, was refused by notice dated 27 March 2019.
 - The development proposed is the creation of a beer garden to the rear together with raised decking, installation of associated smoking shelter and installation of an air input fan to the front elevation.
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Decision

1. The appeal is allowed and planning permission is granted for a beer garden to the rear together with raised decking, installation of associated smoking shelter and installation of air input fan to the front elevation at the Victoria Inn, 196 Burnage Lane, Manchester M19 1FL in accordance with the terms of the application, Ref 122593/FO/2019, dated 4 February 2019, subject to the following 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: 18132-302, 18132-304.
 - 3) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
 - 4) The proposed outdoor seating area shall not operate outside the following hours:

Monday – Saturday: 11:00 – 23:00
Sunday: 12:00 – 23:00
 - 5) Prior to the installation of the air input fan hereby approved the full technical specifications of the fan shall be submitted to and approved in writing by the local planning authority. The submitted details shall indicate that the fan shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise

sensitive location. The equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

Procedural Matter

2. The description of development on the application form did not refer to the installation of raised decking and smoking shelter but was changed by the Council to include reference to these items. The Council's revised description also made reference to an extraction fan, rather than the air input which was originally proposed. No explanation has been provided as to why this was changed, but as the Council has also made reference in their statement to an air intake I conclude that it may have been an error.
3. I have therefore based this decision on the longer description which has been used by both parties in their statements, but have reverted to the original description of the air input fan.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of nearby residential properties on St. Margaret's Avenue, Mauldeth Road and Burnage Lane, with particular regard to noise and disturbance.

Reasons

5. The Victoria Inn is a large, two storey public house situated on the junction of Burnage Lane and Mauldeth Road, both of which are fairly busy through routes. The surrounding area is mixed in character with predominately residential development on Mauldeth Road and more commercial uses on Burnage Lane.
6. The pub has a reasonably large car park which is accessed off Mauldeth Road. The car park is surrounded by residential properties along Burnage Lane, Mauldeth Road and St Margaret's Avenue. Adjoining land to the south has planning permission for a development of extra care housing¹, which was under construction at the time of my site visit.
7. The appeal proposal would involve the creation of a timber decked area for outside seating with a smoking shelter. The slightly raised seating area would be attached to pub at the rear of the Mauldeth Road frontage, in an area which currently forms part of the car park. Access between the pub and the seating area would be via two existing external doors, one of which would be replaced by a new door in the same position.
8. Whilst planning permission is required for the structure of the outdoor seating and smoking shelter, the proposal would not involve any change of use of land. The area outside of the pub could already be used for seating and serving food and drink, without the need for any further permissions. However, the proposed outdoor seating area would be a more attractive outside space for customers to use. It could therefore result in an increase in outside activity, and this has led to concerns about additional noise and disturbance to nearby residents, particularly in the evening and during the warmer months.
9. The Victoria Inn is close to a local centre with a mix of uses. In this location a degree of noise from traffic and evening entertainment activities is to be

¹ Planning application ref 110496/FO/2015/S2

- expected. Although the proposed outdoor seating area could encourage additional activity it would be modest in size and would not add significantly to the capacity of the business. Furthermore, it would be located a reasonable distance from the nearest houses on Mauldeth Road and St Margaret's Avenue.
10. Concerns have been expressed that the outdoor area could result in the pub doors which lead onto it being left open, resulting in internal noise escaping and causing disturbance to residents. The door closest to the proposed smoking shelter leads into a lobby area, which would provide some protection against escape of internal noise. The other door leads into the main pub from which there could be more escape of noise. However, the door is already there and there is nothing to stop it being propped open in the current situation.
 11. The existing smoking area is at the rear of the pub and is near to the backs of houses on Burnage Lane, the closest being number 202. The proposed seating area and smoking shelter would be further away from the nearest residences than in the existing situation, which is a benefit of the scheme.
 12. The adjacent extra care housing scheme will, once completed, increase the number of residences in the area. However, the layout provided by the Council shows that the area closest to the boundary with the Victoria Inn will be a car park. The new flats will therefore be a reasonable distance away from the proposed development and this would reduce the effect of any additional noise.
 13. Notwithstanding the above, the pub has an extended licence with later opening hours on Friday, Saturday and Sunday evenings. In order to protect against potential disturbance to local residents late at night, a condition should be imposed restricting the hours of use of the outdoor seating area. The appellants have suggested that this should reflect the pub opening hours, but given the late weekend opening I consider this would be unneighbourly. Conversely, the suggestion by the Council to restrict opening times to 20:00 would be unreasonable for this type of business.
 14. After 23:00 it is reasonable for residents to expect reduced noise levels on any night of the week. I have therefore attached a condition to limit the opening times of the outdoor seating area until 23:00 each evening, which would protect the living conditions of local residents without imposing excessive restrictions on the business.
 15. The proposed air intake would be located on the front elevation of the pub. To avoid harm to living conditions of nearby residents, a condition is required to ensure that noise from the fan is maintained at an acceptable level.
 16. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of nearby residential properties on St. Margaret's Avenue, Mauldeth Road and Burnage Lane, with particular regard to noise and disturbance. The proposal accords with saved Policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester, which seek to protect the amenities of people living nearby from harm associated with food and drink uses and noise. It also complies with Policies DM1, SP1 and C10 of the Manchester Core Strategy 2012, which similarly seek to protect the amenity and wellbeing of residents.

Other Matters

17. The proposed decking area would be raised by only a small amount and, given the distance from neighbouring residents would not cause overlooking into properties. The pub has a fairly large car park. The size of the decked area would be modest and its location adjacent to the existing building and delivery gates would not result in a significant loss of space available for parking. Problems associated with existing noise and noise beyond the advertised opening hours are matters which would need to be investigated by the Council.

Conditions

18. Conditions are required to provide certainty, to ensure that the appearance of the development is acceptable and to safeguard the living conditions of nearby residents from the effects of noise and disturbance. I have made minor alterations to the wording of the Council's suggested conditions in the interests of clarity and enforceability.

Conclusion

19. I have concluded that with the necessary conditions, the proposal would not cause undue harm to the living conditions of nearby residents. The appeal is therefore allowed.

R. Morgan

INSPECTOR