



Appeal Decisions

Site visit made on 19 November 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal A: APP/W4705/C/19/3220482

Land at Upper Ground Floor, Clifton Mill, Clifton Street, Bradford BD8 7DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mohammad Sohaib Hussain, Clifton Snooker Lounge Ltd, against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 3 January 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the use of the upper ground floor of the building on the land as a snooker lounge.
- The requirements of the notice are i) Cease the unauthorised use of the upper ground floor of the building as a snooker lounge; ii) Remove all equipment and signage associated with the unauthorised snooker lounge use from the building.
- The period for compliance with the requirements is seven days.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld (however see Conclusion and Formal Decision).

Appeal B: APP/W4705/C/19/3223359

Land at Upper Ground Floor, Clifton Mill, Clifton Street, Bradford BD8 7DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Nirmal Singh MBE, Nirmal Razai Mart Co Ltd, against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 3 January 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the use of the upper ground floor of the building on the land as a snooker lounge.
- The requirements of the notice are i) Cease the unauthorised use of the upper ground floor of the building as a snooker lounge; ii) Remove all equipment and signage associated with the unauthorised snooker lounge use from the building.
- The period for compliance with the requirements is seven days.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld (however see Conclusion and Formal Decision).

Appeal C: APP/W4705/W/19/3223007

Clifton Snooker Lounge Ltd, Clifton Street, Manningham, Bradford BD8 7DA

- 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 Mohammad Sohaib Hussain, Clifton Snooker Lounge Ltd, against the decision of City of Bradford Metropolitan District Council.
- The application Ref 18/05344/FUL, dated 18 December 2018, was refused by notice dated 7 February 2019.
- The development proposed is Retrospective change of use from vacant commercial B1 use to form D2 assembly and leisure use for snooker lounge.

Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out below in the Formal Decision.

Appeal B on ground (b)

1. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. The appellant's case is simply that it is the tenant who is responsible for the breach of planning control and not themselves as the owner. However, this is not material to whether the alleged unlawful use of the land has actually occurred in the context of a ground (b) appeal. It is undisputed that the appeal site is currently in use as a snooker lounge and I have no reason to take a contrary view. The ground (b) appeal therefore fails.

Appeal A on ground (g)

2. The appeal on ground (g) is that the time given to comply with the requirements is too short, on the basis that the aforementioned planning application was pending.
3. However the planning application in question forms the basis of Appeal C, which will therefore be determined at the same time as this appeal. If Appeal C is successful, Section 180 of the Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. The permission would therefore override the notice and there would be no requirement for compliance with it.
4. Conversely if Appeal C was to be unsuccessful, the appellant has given no explanation as to why the compliance period given in the notice would be unreasonable. Therefore the existence of the planning application would not, in its own right, provide a basis for extending the compliance period. The ground (g) appeal therefore fails.
5. Therefore for the reasons given above I consider that Appeals A and B should not succeed.

Appeal C

Main Issue

6. The main issue is the effect of the development on the living conditions of nearby residents with particular regard to noise disturbance.

Reasons

7. The appeal site is part of a substantial building that appears to have been divided into a number of industrial units and offices. The site comprises a rectangular unit that has been split into four separate rooms with full sized snooker tables, each accommodating a small amount of spectator seating.

There are also a number of small rooms accommodating online gaming facilities and a bar and waiting area at the upper ground floor entrance to the unit. On the opposite side of Clifton Street to the appeal site there are a small number of houses fronting the street, including semi-detached units directly opposite the premises.

8. Given the limited capacity for participants and the expectation that a booking system would need to be used to accommodate clients, I consider that the nature of the use would not encourage overcrowding within the building. Snooker and gaming uses are generally quiet pastimes and as such would not be expected, in their own right, to result in noise disturbance to local residents.
9. In terms of comings and goings it was evident from my visit and from the information provided that there are a small number of unrestricted parking spaces directly outside the building, with spaces on the opposite side of the road being reserved for permit holders. The use of the unrestricted spaces by clientele would have the potential to result in disturbance to residents as a result of vehicle manoeuvring and car doors being opened and closed. Furthermore it is possible that the loud conversations of some clientele arriving at or leaving the premises would be overheard. I concur with the view that the continuation of such noise sources late into the night, when also considering the potential for house windows to be open, would be likely to result in unacceptable noise disturbance.
10. However it also seems to me that any potential disturbances outside the building would be very fleeting in nature, particularly given the capacity for clients to wait and socialise within the building itself when not actually participating in the leisure activities, therefore limiting the need to congregate outside. In addition it is undisputed by the Council that, outside the planning process, it has not received any complaints regarding nuisance associated with the premises.
11. Some third parties have referred to littering associated with users of the premises, including the leaving of drug paraphernalia. I have noted the appellant's comment that they intend to employ additional staff with a view to deterring potential anti-social behaviour. Whilst I concur with the Council that this could not easily be enforced against through planning conditions, I acknowledge that the appellant has displayed signage on the premises to warn patrons against inconsiderate behaviour, thus demonstrating commitment to addressing any issues. Furthermore any persistent issues of anti-social behaviour could be addressed by the Council under separate powers.
12. I note that the appellant has not raised any objection to the conditions suggested by the Council, in the event of the appeal being allowed, restricting the operating hours of the premises to not later than 11pm and its use to that of a snooker lounge. When also taking into consideration that the proposal would appear to be a valued recreational use, which may assist with deterring anti-social behaviour in general, it seems reasonable to me that this would allow for an acceptable compromise.
13. Drawing these considerations together, and subject to appropriate conditions controlling use and operating hours, I conclude that the development would not result in unacceptable harm to the living conditions of nearby residents with particular regard to noise disturbance. Accordingly there would not be conflict with Policy DS5 of the City of Bradford Core Strategy 2017 or with the National

Planning Policy Framework insofar as they seek to protect the living conditions of residents, promote a safe and secure environment and, where appropriate, provide opportunities for members of the community to meet one another.

Conditions

14. I have considered the suggestion by the Council's highway officer that the use ought to be restricted within Use Class D2. I am persuaded that such a condition would be appropriate in this case, as would a condition regarding the operating hours of the premises, in the interests of protecting the amenities of local residents. A condition citing the relevant plan is imposed in the interests of certainty.

Other Matters

15. Some third parties have raised concerns that clients attending the snooker lounge are parking in Clifton Street inconsiderately, in spaces that are reserved for residents or blocking access to driveways. However if parking regulations are breached by the taking of spaces reserved for permit holders, it seems to me that the Council would be able to issue penalty notices to deter such behaviour. Similarly, the blocking of an access could be a police matter. It is apparent that there is some on-street car parking space available adjacent to the premises and I note that the Council's Highway authority has raised no objection on parking grounds. I conclude that parking provision would not be a reasonable ground for refusing planning permission in this case.

Overall Conclusion

Appeal C

16. For the reasons given above I conclude that the appeal should be allowed.

Appeals A and B

17. Section 180 of the Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently the notice ceases to have effect with regard to the use of the upper ground floor of the building on the land as a snooker lounge, because this benefits from planning permission and is therefore lawful for planning purposes. For the avoidance of doubt this means that the enforcement notice ceases to have effect so long as the planning permission is extant and is complied with.

Formal Decisions

Appeals A and B

18. The appeals are dismissed and the enforcement notice is upheld.

Appeal C

19. The appeal is allowed and planning permission is granted for the Retrospective change of use from vacant commercial B1 use to form D2 assembly and leisure use for snooker lounge at Clifton Snooker Lounge Ltd, Clifton Street, Manningham, Bradford BD8 7DA in accordance with the terms of the

application, Ref 18/05344/FUL, dated 18 December 2018, and the plans submitted with it, subject to the conditions below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 103–Proposed upper ground.
- 2) The use of the premises hereby permitted shall only take place between 9:00 hours and 23:00 hours.
- 3) The premises shall be used as a snooker lounge, including electronic gaming with ancillary bar and waiting areas, and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

END OF SCHEDULE OF CONDITIONS