



Appeal Decision

Site visit made on 26 November 2019 by L Wilson BA (Hons) MA

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/X4725/W/19/3236791

3 Jacobs Well Lane, Wakefield, WF1 3NN

- 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 Mohammed Riaz, on behalf of Choudray Real Estates, against the decision of Wakefield Metropolitan District Council.
 - The application Ref 19/00133/FUL, dated 10 January 2019, was refused by notice dated 18 March 2019.
 - The development proposed was described on the application form as: Conversion to barber's shop.
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Decision

1. The appeal is allowed and planning permission is granted for the use as A1 (barber's shop) at ground floor only at 3 Jacobs Well Lane, Wakefield, WF1 3NN in accordance with the terms of the application, 19/00133/FUL, dated 10 January 2019, and the plans submitted with it, subject to the following condition:
 - 1) The premises shall only be open for customers between the following hours:
09:00-21:00 Mondays to Saturdays
10:00-18:00 Sundays and bank holidays.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The development for which planning permission is sought was described on the application form as "conversion to barber's shop". Within its decision notice the Council described the development as; "Use as A1 (barber's shop) at ground floor only (retrospective)". In the appeal form the appellant used the description; "use as barber's shop at ground floor". In the formal decision I have used the description given by the Council in the decision notice as it is a more precise and accurate reflection of the change of use for which permission is sought. However, I have removed reference to the word "retrospective" because that does not amount to an act of development.
4. On the application form the appellant confirms that the barber's shop has been in use since October 2018. I noted on my site visit that the development had

been carried out. From the evidence before me, it is clear that the proposal is to retain the development that has already occurred, and I have dealt with it on that basis.

Main Issue

5. The effect of the barber's shop on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons for the Recommendation

6. The appeal site marks a transition point between a predominantly residential area and a busier commercial area. The commercial uses include offices, Trinity Walk Shopping Centre and Wakefield bus station. The A61 dual carriageway is adjacent to No.3 and distinguishes the two areas.
7. The appellant highlights that the first floor and basement of No.3 are in residential use. Both main parties agree that the unit was previously occupied by other uses, but it appears, from the evidence submitted, that not all the uses have been lawful. Consequently, whilst the property would appear to have been used for commercial purposes, the lawful, established, use is not clear from the information before me.
8. The Council accept that the principle of an A1 use within a residential area is acceptable as long as it can operate in harmony with, and not conflict with existing uses and neighbours. The operating hours sought by the appellant are Monday–Saturday 09:00–21:00 and Sundays and bank holidays 10:00–18:00. Environmental Control did not object to the scheme subject to conditions restricting operational hours and no amplified music. The opening hours they sought were until 18:00 Monday–Saturday and no opening on a Sunday or bank holiday to protect existing residential amenity. The appellant did not agree to these operating hours. They considered these hours would affect the viability of the business and Sunday is a traditional working day in the Asian community which the business is aimed at.
9. Residents have highlighted that customers stand outside smoking and cause noise which causes disturbance. However, the evidence before me is limited in that regard and the matter does not appear to have been reported to or investigated by the Council's Environmental Health department. I observed on my site visit that the site is already noisy due to the proximity of the A61 and I agree with the appellant that a barber's is not a use which is typically associated with noise and disruption.
10. The Council has stated that the premises has three styling chairs, accordingly the barbers is relatively small and the number of customers is likely to reflect this. At my site visit, I observed several other non-residential ground floor uses adjacent to residential properties. These uses included convenience stores and Abdul's which appeared to be a restaurant. It is common for such uses to sit cheek by jowl with residential uses in terraced streets and it is not uncommon for small businesses to operate into the evening, beyond normal office hours and during daytime hours on weekends. In that context, the hours sought are not considered unreasonable and a 9pm closing time Monday to Saturday with shorter hours on Sundays and bank holidays would strike an acceptable balance between the operational needs of the use and the living conditions of neighbouring residents. Consequently, owing to the site's context, I am not

persuaded that this use has resulted in an increase in noise and disturbance to such an extent that it adversely affects the living conditions of nearby residents to a degree that would warrant planning permission being refused.

11. Granting planning permission for the barber's would allow the premises to be converted to other A1 uses in the future. Due to the size of the unit, other uses in the area, an alternative A1 use would not have a detrimental impact upon the living conditions of nearby residents.
12. For these reasons, I am satisfied that the development does not have an unacceptable effect upon the living conditions of nearby residents, with particular regard to noise and disturbance. Consequently, it accords with Policies D9(k) and D20 of the Local Development Framework: Development Policies (2009), both of which seek to ensure that development does not have an undue effect on the quality of life of adjacent communities, and the aims of the National Planning Policy Framework, particularly paragraph 127 in relation to well-designed places.

Other Considerations

13. Local residents have raised concerns relating to parking. The Council considered the proposal to be acceptable in terms of highway safety and I have no reason to disagree. The appellant claims that the majority of customers live locally and therefore walk to the shop. I noted on my site visit that parking is restricted to permit holders only and there are several public car parks in proximity to the site where customers can park. Additionally, Wakefield bus station is a short walk from the appeal site.
14. Residents also consider that the premises is encouraging other barbers to open late. Each application and appeal must be determined on its individual merits and a concern of this nature does not justify withholding permission in this case.

Conditions

15. The Council has only recommended a condition restricting the operating hours of the unit. I agree that a condition controlling the hours of operation is necessary to protect the living conditions of nearby residents. However, I do not agree with the operation hours the Council has suggested. The operational hours suggested by the Council are Mondays to Fridays 09:00-18:00, Saturdays 09:00-16:00 and no opening on a Sunday or bank holidays. As set out above, the appellant has not agreed to these operating hours and I do not consider such restrictive hours to be necessary. The operating hours sought by the appellant are reasonable and I recommend that a condition is attached accordingly.

Conclusion and Recommendation

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

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the condition attached.

Chris Preston

INSPECTOR