



Appeal Decision

Site visit made on 26 November 2019

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2020

Appeal Ref: APP/W4223/W/19/3238394

49-51 Edward Street, Werneth, Oldham OL9 7QT

- 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 M Rafique against the decision of Oldham Council.
 - The application Ref PA/342870/19, dated 22 January 2019, was refused by notice dated 3 May 2019.
 - The development proposed is change of use of reception room into a convenience store.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of reception room into a convenience store at 49-51 Edward Street, Werneth, Oldham OL9 7QT in accordance with the terms of the application, Ref PA/342870/19, dated 22 January 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: 1 of 4, 2 of 4, 3 of 4 and 4 of 4.
 - 3) The development hereby permitted shall not be brought into use until footway bollards have been provided to the front of the site, in accordance with a scheme that shall first be submitted to and approved in writing by the local planning authority. Such works that form part of the approved scheme shall be retained thereafter for the life of the development.
 - 4) The use hereby permitted shall only take place between 0800-2200 hours every day.

Main Issues

2. The main issues are the effect of the proposal on the:
 - (a) living conditions of the occupiers of nearby residential properties; and,
 - (b) safety of all highway users.

Reasons

3. The site is a pair of 2 storey semi-detached dwellings, converted into one house, located in a predominantly residential area of Oldham. The proposal is to change the use of the lounge of the dwelling into a small convenience store, which would include some minor alterations to the external appearance of the building.

Living conditions

4. Adjacent to the site is another pair of semi-detached dwellings, separated by around a 2m gap. To the north west and rear of the site is open space and a dilapidated children's play area, and construction was underway for a housing development opposite the site.
5. The application form details that opening hours are proposed to be 0700 – 2300 every day. However, the appellant sets out that the opening hours could be changed and despite the planning application form, opening hours is a matter that can be controlled by a planning condition. Given the site is adjacent to residential dwellings, noise associated with opening and closing of the store at these times may affect neighbouring living conditions, given that nearby occupants may be sleeping.
6. Having regard to this, and having sought both parties' comments, a condition to control opening hours between 0800-2200 could be imposed. This would result in activities associated with opening and closing the store taking place within more reasonable daytime hours. Other unacceptable noise or disturbance from activities or servicing arising at the site would be highly unlikely given it would be such a small convenience store.
7. I agree with the appellant that the proposal would provide a local community shop that would be accessible on foot for a high number of residents, encouraging sustainable modes of transport and promoting social interaction and the provision of jobs. Indeed, the Council note that it would be the only shop in the immediate locality.
8. The concerns from the Council regarding other harmful activities associated with the use are not substantiated or indeed expanded upon. Customers parking outside neighbouring houses may occur, and while this may be an inconvenience, it would not amount to any significant harm to living conditions.
9. Consequently, the proposal would have an acceptable effect upon the living conditions of the occupiers of nearby residential properties. This would be compliant with Policy 9 of the Oldham Joint Core Strategy and Development Management Policies (November 2011) (the development plan), which seeks to protect and improve local environmental quality and amenity.

Safety of all highway users

10. The road contains a traffic calming measure in the form of a raised junction platform on the bend immediately to the north west of the site, near to the play area. There are also tactile paving sections which indicate 2 pedestrian crossing points to both ends of the raised junction platform, and there are bollards on the footway. The road contains no parking restrictions.
11. The proposal is likely to receive a high number of its customers on foot, given it would be a convenience store in an accessible area that would promote walking to the site. However, I agree with the Council that customers arriving by car are likely to park on Edward Street in order to access the shop. The Council claims this would block the footway such that pedestrians would be forced to walk in the vehicular carriageway.
12. Although I have no substantive evidence to indicate that customers would park in such locations and I observed the footway was wide; if this did happen, this

may restrict its width unacceptably. In order to control this, the Council suggest a condition to require bollards to be placed on the footway outside the site. This would ensure that the footway could not be obstructed by vehicle parking. It would be a reasonable, appropriate and necessary highway safety measure given the proximity to the play area, and it would support the safety of pedestrians and other vulnerable road users. For this reason, a condition should be imposed.

13. In terms of servicing the site, with the bollards in place, a delivery vehicle would park on street, not on the driveway. This would not obstruct the footway and the scenarios envisaged by the Council would not be possible. Therefore, I see no reason why servicing the site would cause unacceptable harm to highway safety.
14. Vehicles parked on street near the crossing could restrict the inter-visibility for the crossing presently. Although the use may attract some customers by car, there is little substantive evidence to indicate that customers would park in such a location, particularly as the area to the front of the site would contain bollards, it is near a bend and having regard to a drivers' highway safety awareness when parking. Moreover, controlling where drivers choose to park their vehicles is a matter outside that of planning, and parking in this location could occur without the development. Consequently, as the proposal would be a small shop serving the local community, and I consider a high number of customers would arrive on foot, to withhold planning permission on this basis alone would, on balance, be unjustified.
15. Consequently, the proposal would have an acceptable effect upon the safety of all highway users, compliant with Policies 5 and 9 of the development plan. Policy 5 seeks to ensure the safety of pedestrians and promote accessibility and sustainable transport choices.

Conditions

16. Aside from the conditions detailed above, the plans are listed for certainty. Agreement of the appellant for the pre-commencement condition has been sought.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR