The Planning Inspectorate

Appeal Decision

Site visit made on 7 January 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2020

Appeal Ref: APP/P2365/W/19/3230075
26 Miners View, Upholland, Skelmersdale, Lancashire WN8 0AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mrs Helen Murray against the decision of West Lancashire Borough Council.
- The application Ref 2018/1148/FUL, dated 27 October 2018, was approved on 26 February 2019 and planning permission was subject to conditions.
- The development permitted is the change of use of the rear of a residential garage to allow the running of a beauty salon business from home.
- The conditions in dispute are Nos 3 and 5 which state that: The use hereby permitted shall only take place between the hours of 0900 and 1900 Tuesday to Friday, 0900 and 1300 Saturdays and shall not take place at any time on Mondays, Sundays or Public/Bank Holidays; and, This permission is valid for a limited period only expiring on 21st February 2020 by which date the use hereby authorised shall be discontinued unless a further permission for this use has been granted by the Local Planning Authority.
- The reasons given for the conditions are: To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-207 development Plan Document; and, To assess the effect of the development upon the amenities of the neighbouring area and to enable any future applications to be decided on this assessment, thereby ensuring compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Decision

1. The appeal is allowed and the planning permission Ref 2018/1148/FUL for the change of use of the rear of a residential garage to allow the running of a beauty salon business from home at 26 Miners View, Upholland, Skelmersdale, Lancashire WN8 0AZ granted on 26 February 2019 by West Lancashire Borough Council, is varied by deleting conditions 3 and 5 and substituting them for the following condition:

   3. The use hereby permitted shall only take place between the hours of 0900 and 2000 Monday to Friday, 0900 and 1300 Saturdays and shall not take place at any time on Sundays or Public/Bank Holidays.

Preliminary Matters

2. Notwithstanding the description of development detailed in the application form, I have used the description of development as detailed in the Decision Notice because it more accurately describes the development. Furthermore, I

note that the development has already been carried out and I have assessed the appeal on this basis.

Main Issues

3. The main issue is the effect that removing conditions Nos. 3 and 5 would have on the living conditions of the occupiers of neighbouring properties.

Reasons

4. In respect of the opening hours restriction set out in condition no.3, I note that the Appellant initially sought consent to operate until 2000 Tuesday to Friday and for part of the day on some Saturdays.

5. The beauty salon and access to it is situated to the rear of the double garage at the side of the appeal property, away from the neighbouring residential dwellings. Consequently, there is sufficient separation distance between the buildings to protect the occupiers of those properties from detrimental impacts resulting from the operation of the beauty salon.

6. I note that the occupiers of neighbouring properties have reiterated concerns raised in respect of the application at this appeal, with particular regards to car parking, a loss of privacy and noise and disturbance. These concerns relate, in particular, to the comings and goings of customers at the front of the property.

7. At the time of the site visit, which was carried out in the morning of a typical week day, the area was quiet with cars generally parked on driveways to the front of properties rather than on the highway.

8. I observed the layout of the cul-de-sac and the relationship of the driveway on the appeal site and that of the neighbouring property, no.28 and I saw that the existing driveway provides a large and accessible off-street parking area sufficient to serve both the residents of the appeal property and the customers of the beauty salon.

9. The Appellant describes a typical appointment as lasting 1-2 hours, on this basis there could only typically be one or two customers arriving at and leaving the site in the evening. I do not find that this level of activity, in the context of the residents of the dwelling and other neighbours in the cul-de-sac, is such that it would result in a detrimental impact on the living conditions of the occupiers of neighbouring residential dwellings.

10. However, as a result of the predominantly residential character of the area it is necessary and reasonable to include a condition controlling the hours of operation of the salon in order to protect the living conditions of the occupiers of neighbouring dwellings.

11. Therefore, I find that condition no.3 should be amended to reflect the requested hours as detailed in the application form. The hours of operation of the salon can be extended up to 2000 and can include Mondays which are a typical week day where no additional restrictions are required to protect living conditions. It necessary however, to retain the opening hours and restrictions in respect of Saturdays, Sundays and Bank Holidays in order to protect the living conditions of the occupiers of neighbouring properties.

12. In this regard the development does not conflict with the provisions of Policy GN3 of the West Lancashire Local Plan that amongst other matters seeks to protect the living conditions of the occupiers of neighbouring properties.

13. Turning to condition no.5, this condition has the effect of limiting the life of the planning permission to approximately 1 year. The reason for the condition given by the council is to allow an assessment of the effect of the use on the living conditions of the occupiers of neighbouring properties. I note that the Planning Practice Guidance - Use of planning conditions, specifically refers to the circumstances where a temporary planning permission may be appropriate as including where a trial run is needed in order to assess the effect of the development on the area.

14. However, I note that the temporary permission will expire in February 2020 and that the use has been in operation for some time, sufficient to allow a full and proper assessment of the impacts of the use.

15. While I note that a number of local residents have objected to the proposed development I am satisfied that, with appropriate restrictions on the opening hours of the Salon and the conditions not at dispute here that remain as part of the planning permission, on the basis of the evidence before me and for the reasons detailed previously, the operation of the business would not result in a detrimental impact on the living conditions of the occupiers of neighbouring residential dwellings

16. In this regard the development does not conflict with the provisions of Policy GN3 of the West Lancashire Local Plan that amongst other matters seeks to protect the living conditions of the occupiers of neighbouring properties. As such, the condition limiting the life of the permission is not necessary and can be deleted.

Other Matters

17. I have given careful consideration to the representations made by the occupiers of the neighbouring properties, it is regrettable that the appropriate consent was not sought by the Appellant prior to starting the salon business at home and converting part of the garage. I have some sympathy with the residents who may not have bought their new home if they had been aware of the business or the intention to open a business at the appeal property. Furthermore, I note the comments of the neighbour with regards the suggested breaches of the existing planning permission. However, these issues do not alter my findings set out previously.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed conditions and substituting others.

Mark Brooker

INSPECTOR