



Appeal Decision

Site visit made on 20 January 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/M1710/W/19/3239859

Cross and Pillory House, Cross & Pillory Lane, Alton GU34 1HL

- 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 HB 3D Hampshire East against the decision of East Hampshire District Council.
 - The application Ref 58292, dated 10 June 2019, was approved on 30 July 2019 and planning permission was granted subject to conditions.
 - The development permitted is change of use from retail (Use Class A1) to pregnancy ultrasound clinic (Use Class D1).
 - The condition in dispute is No 2 which states that: The premises shall not be used outside the hours of: 09:00 to 17:00 Monday to Friday, 09:00 to 18:00 Saturday, Closed Sunday, Public or Bank Holidays.
 - The reason given for the condition is: To ensure that the amenities of the area are not detrimentally affected by the use of the site outside reasonable working times.
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Decision

1. The appeal is allowed and the planning permission Ref 58292 for change of use from retail (Use Class A1) to pregnancy ultrasound clinic (Use Class D1) at Cross and Pillory House, Cross and Pillory Lane, Alton GU34 1HL granted on 30 July 2019 by East Hampshire District Council, is varied, by deleting condition No 2.

Procedural Matters

2. The point of contention between the parties relates solely to condition No 2 of the planning permission restricting the hours and days of the week that the premises can be used. I have no reason to disagree with the conclusions reached by the Council in respect of all other issues relating to the determination of the planning application.
3. I have taken the appeal site address from the planning application form. I am not aware that there was any agreement between the parties to alter the wording of the address from what is shown on the application form and so I have used that.

Background and Main Issue

4. A pregnancy ultrasound clinic is now trading at the appeal site. In approving the planning application, the Council imposed a condition restricting the hours and days of the week that the premises can be used. The appeal seeks the removal of this condition.

5. The main issue is whether the condition is reasonable and necessary in the interests of the living conditions of neighbouring occupiers, with particular reference to noise and disturbance.

Reasons

6. The clinic is one of several businesses, including two restaurants, operating from the units within Cross and Pillory House on Cross and Pillory Lane. The site is in the town centre of Alton and is close to the High Street. It is surrounded by offices, retail and commercial premises and a public car park which is located to the rear of the site. There are also residential properties near to the appeal site. Cross and Pillory Lane forms a pedestrian and vehicular route from the High Street with its shops and business premises to the Market Square where, amongst other commercial premises, there are restaurants and a public house.
7. The evidence indicates that the clinic is a relatively small-scale business with three staff and entails the use of ultra-sound scanners within the scanning room in the premises. Moreover, the scanners do not generate excessive amounts of noise. Therefore, the noise impact of the operation of the scanning equipment within the pregnancy ultrasound clinic on nearby occupiers is extremely limited.
8. Some noise and disturbance would arise from the clients arriving at the site on foot, and the closing of vehicle doors should clients choose to be dropped off outside the clinic rather than park in the public car park and walk through Cross and Pillory House to the clinic. However, such activities would not seem intrusive given the bustle associated with the town centre location of the site and in the context of nearby offices, shops, restaurants, public houses and the public car park, even during periods when these other premises in the vicinity of the site are closed.
9. I conclude that the condition limiting the hours and days of the week for the use of the premises as a pregnancy ultrasound clinic is not reasonable or necessary, taking into account the advice within the National Planning Policy Framework and the Planning Practice Guidance on the use of planning conditions.
10. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Andrew Bremford

INSPECTOR