



Appeal Decision

Site visit made on 17 February 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2020

Appeal Ref: APP/B2355/W/19/3240736

208 Newchurch Road, Stacksteads, Bacup OL13 0TS

- 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 Riast Khan against the decision of Rossendale Borough Council.
 - The application Ref 2019/0359, dated 15 August 2019, was refused by notice dated 15 October 2019.
 - The development proposed is a change of use from A1 to A3/A5
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has undertaken an Environmental Impact Assessment (EIA) screening of the proposed development, under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. From the evidence I am satisfied that an EIA is not required in this case.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of nearby occupiers, with particular regard to noise and disturbance
 - the character and appearance of the area.

Reasons

Living Conditions

4. The appeal building is located on the southern side of the A681, Newchurch Road, which links Bacup to Rawtenstall. It is located towards the centre of a terrace containing a mix of dwellings and shop-type uses, between Farholme Lane in the west and Brookes Street in the east, and outside of designated town or district centres. On the northern side of Newchurch Road are a mix of housing types, including a terrace of dwellings opposite the appeal building.
5. The proposed development would convert a vacant shop unit into a café / takeaway, which would employ six people on a full-time / part-time basis. The use would be open between 08.00 and 22.00, Monday to Saturday, excluding bank holidays. The appellant states that the café use would operate during the

- daytime, serving breakfasts and lunches, with the takeaway use operating in the evening.
6. There are other shop-type uses further along Newchurch Road, including three other hot food takeaways to the west. However, the appeal building is some distance from the nearest takeaway, which is to the west of Branch Street, and so would not create an over-concentration of such uses in the area.
 7. To the immediate west of the appeal building are two dwellings, Nos 210 and 212, with further dwellings to the east, Nos 194 – 204. The Council's Interim Policy Statement: Hot Food Takeaways June 2011 (IPS), provides guidance regarding the provision of hot food takeaways. The IPS advises that hot food takeaways are not normally acceptable where they would be adjacent to residential accommodation¹, where noise and disturbance from customers may cause harm to residents in the evening.
 8. Newchurch Road is a busy road that would be likely to generate a level of traffic noise during the day and into the evening. Furthermore, there is a public house nearby, close to Farholme Lane, and a bus stop to the front of the appeal building, both of which would also be likely to generate some noise and disturbance from patrons in the evening.
 9. However, the proposed takeaway use, normally operating six evenings a week, adjacent to No 210 and close to other nearby dwellings, would significantly increase activity in this area. This would add to the existing noise and disturbance experienced by these occupiers and would cause them unacceptable harm.
 10. For these reasons, the proposed development would adversely affect the living conditions of nearby occupiers, with particular regard to noise and disturbance. Consequently, the proposed development would conflict with Policy 24 of the Rossendale Core Strategy Development Plan Document 2011 (RCSDPD), and with the National Planning Policy Framework 2019 (the Framework), which seek to protect people from harmful noise and disturbance and to promote well-being.

Character and appearance

11. The appeal building is a 2-storey, mid-terrace, stone property with a slate roof and two separate chimney stacks. The vacant shop unit extends across three-quarters of the ground floor of the property, with access passageways at the eastern side, leading to the rear of the building. No external works are proposed for the ground floor or first floor of the building as part of the appeal development, other than repair and re-decoration.
12. However, to remove fumes from the proposed cooking area, a stainless steel extraction flue would be installed, rising through the building and piercing the front slope of the slate roof, a short distance from one of the existing stone chimney stacks, and to a similar height.
13. The proposed flue would be largely screened in views from the west by the existing chimney stack. However, from the northern side of Newchurch Road, and in views from the east, the proposed flue would be visible. Its design, size, materials and position on the unaltered front roof slope, means that it

¹ HFTA 2 – Proximity of Hot Food Takeaways to Residential Properties

would be an incongruous addition and harmful to the streetscene. It would conflict with the IPS, which seeks, in part, to protect the character and appearance of the streetscene².

14. I note the appellant's comments regarding the flue system, including potentially conditioning the final design of the system. However, the submitted drawings show the proposed flue as part of the appeal development and I am not, therefore, satisfied that such a condition would be necessary.
15. Furthermore, the potential alterations to the proposed development from such a condition may disadvantage nearby occupiers, and so would fail the test of reasonableness³.
16. For these reasons, the proposed development would adversely affect the character and appearance of the area. It would therefore conflict with Policies 1 and 24 of the RCSDPD, and with the Framework, which seek to protect the character and appearance of the area, amongst other things.

Other Matters

17. The appellant refers to the proposed takeaway replacing a chip shop use at 192 Newchurch Road. This does not affect the harm that would be caused by the proposed development, as set out above, and does not cause me to reach a different conclusion with regard to this appeal.

Conclusion

18. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

² HFTA 4 – New Build Development and the Extension or Alteration to an Existing Building

³ Paragraph 55 of the Framework.