



Appeal Decision

Site visit made on 10 February 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/M0655/W/19/3241397

20 The Courtyard, Common Lane, Culcheth and Glazebury, Warrington WA3 4HA

- 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 Mark Bayley against the decision of Warrington Borough Council.
 - The application Ref 2019/34875, dated 4 April 2019, was refused by notice dated 19 August 2019.
 - The development proposed is a change of use from A1 to A4 gin/cocktail bar.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from A1 to A4 gin/cocktail bar at 20 The Courtyard, Common Lane, Culcheth and Glazebury, Warrington WA3 4HA in accordance with the terms of the application, Ref 2019/34875, dated 4 April 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: Location Plan 01, Site Plan 02, Bar Floor Plan 03, Existing and Proposed layout general arrangement 01, received on 25th April 2019.
 - 3) Deliveries shall be taken at the site only between 0700 and 1800 Mondays to Fridays, and between 0900 and 1800 on Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
 - 4) The collection of refuse from the site shall only take place between 0700 and 1800 Mondays to Fridays, and between 0900 and 1800 on Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
 - 5) No external sound-amplifying equipment, loudspeaker system or public address system shall be installed or operated, and no music shall be played in the external area at any time.
 - 6) Any externally located plant or equipment shall not cause an increase in the ambient background noise level at the boundary of the nearest residential property, in accordance with the results of a BS4142:2014 noise assessment. Any equipment not able to meet this requirement shall be acoustically treated in accordance with a scheme that shall first have

been submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.

- 7) Customers shall only be permitted on the premises between the following hours:
12:00 – 23:30 Wednesdays and Thursdays
12:00 – 00:30 (the following morning) Fridays and Saturdays
12:00 – 22:30 Sundays and Bank Holidays.

Procedural Matter

2. The description of development in the banner heading above is that used in the decision notice. For clarity I have used that in preference to the description on the original application form, which was longer and included wording related to the merits and purposes of the proposal rather than descriptive of the development.

Main Issue

3. The main issue is the effect of the proposed change of use on the living conditions of nearby residents, with particular regard to noise disturbance.

Reasons

4. The appeal property is a unit previously used as a bridalwear shop, in a small mixed commercial development known as 'The Courtyard' which is set around a shared car park. The site sits within Culcheth village centre, and there are other retail and commercial uses to the south west on Common Lane and to the south east on Lodge Drive, including several restaurants and the Cherry Tree pub. The area to the north, as well as the wider surrounding area, is predominantly residential.
5. The proposed opening hours for the bar are from 16:00 to 23:30 on Wednesdays and Thursdays, from 16:00 to 23:30 on Fridays, from 12:00 on Saturday to 00:30 on Sunday, and from 12:00 to 22:30 on Sundays. It is suggested that the bar would accommodate around 20 customers, although its capacity is a matter which would be dealt with as part of a premises licence application. There is the potential for some noise and disturbance arising from the use of the appeal premises as a drinking establishment arising both from within the unit and from the comings and goings of customers. However, this needs to be assessed in the context of the premises' small size and its location in a commercial development within the village centre.
6. The rear of the nearest dwelling on Ellesmere Road is approximately 45m from the front door of the appeal property. Other dwellings on Common Lane, Thompson Avenue and Wigshaw Lane are further away. Given both the small size of the unit and its physical separation from the nearest dwellings, and having regard to the mix of uses found in the village centre, I consider that there would be relatively little impact from the use of the premises as a bar. The opening hours and times at which the business would be serviced could be controlled through the imposition of a planning condition, as could the noise impact arising from any external plant such as refrigeration equipment.
7. The Courtyard's car park, which the appeal premises would share with the other businesses in the development, is entered from Common Lane but

vehicles must leave via Ellesmere Road, turning into that road outside No 21. The appeal property would be used later into the evening as a bar than was previously the case, and there would therefore also be the noise of vehicles leaving the car park later into the evening. Although the provision of car parking did not form part of the reason for refusing the planning application, from the information before me I note that the Council's car parking standard requires four off-street parking spaces for a drinking establishment of the size proposed. This indicates that the overall level of car use arising from the use of the appeal premises as a bar is anticipated to be small. On that basis I consider that the proposed use would not lead to an unacceptable increase in noise disturbance caused by customers departing in vehicles.

8. For these reasons, I conclude that the proposed change of use would not be harmful to the living conditions of nearby residents. It therefore complies with the requirements of Policy QE6 of the 2014 Warrington Local Plan Core Strategy, which among other things seeks to ensure that development does not have an adverse effect on the living conditions of existing residents arising from noise and disturbance.

Other Matters

9. Interested parties have raised concern about litter and anti-social behaviour in and around the village centre. They attribute this existing problem to users of licenced premises and takeaways elsewhere in Culcheth. While I recognise their concerns about these matters, no substantive evidence has been put forward to suggest that allowing the appeal would significantly increase the potential for such anti-social activity in the future.
10. Similarly, some interested parties questioned whether there was a need for an additional drinking establishment in the village centre. However, I note that neither the principle of the proposed use nor the development plan's aim of protecting and enhancing the diversity and vitality of town and neighbourhood centres were referred to in the Council's reasons for refusal, and indeed in bringing an empty unit back into use it is acknowledged that the proposal would be positive in these regards.
11. Finally, one interested party referred to problems with sewage disposal affecting some houses on Ellesmere Road. However, none of the evidence before me indicates that the use of the appeal premises as a small bar would contribute to or worsen this existing problem.

Conditions

12. I have considered the conditions suggested by the Council in the light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the Council's suggested wording.
13. Apart from the standard time limit condition (1), it is necessary for the development to be implemented to accord with the application plans for certainty (2).
14. Conditions limiting the times when deliveries can be made and rubbish collected are required to protect the living conditions of nearby residents (3, 4), while conditions preventing the use of sound amplification equipment outside the premises (5) and limiting the noise of any external plant (6) are necessary

to protect both the living conditions of nearby residents and the working conditions of the other businesses within The Courtyard.

15. Finally, I have imposed a condition limiting opening hours (7), which is necessary both to protect the living conditions of nearby residents and to ensure that the opening hours of the bar reflect the basis on which permission was sought and on which the application was considered. I note that the appellant proposes that the bar will open later on Wednesdays and Thursdays and close earlier on Friday than the times suggested by the Council. However, the actual opening hours within the range of hours permitted are a matter for the appellant.

Conclusion

16. For the reasons given above the appeal is allowed.

M Cryan

Inspector