



Appeal Decision

Site visit made on 14 May 2020 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2020

Appeal Ref: APP/N4720/W/20/3246476

52B North Lane, Headingley, Leeds LS6 3HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Adel Hatami against the decision of Leeds City Council.
 - The application Ref 19/06203/FU, dated 6 October 2019, was refused by notice dated 28 November 2019.
 - The application sought planning permission for '*Variation of condition 2 (hours of opening) of planning application 14/05947/FU to 11:30 - 00:30 (Sunday, Monday, Tuesday, Wednesday) 11:30 - 01:00 (Thursday, Friday, Saturday)*' without complying with a condition attached to planning permission Ref 14/05947/FU, dated 25 November 2014.
 - The condition in dispute is No. 2, which states that: *The hours of opening of the premises shall be restricted to 11:30 - 00:30 hours Monday to Sunday, with no opening at any other time.*
 - The reason given for the condition is: *In the interests of neighbouring residential amenity, in accordance with Policy GP5 of the Leeds Unitary Development Plan Review (2006), as required by the Leeds Core Strategy and in accordance with the recommendations of the National Planning Policy Framework.*
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The description of development in the banner heading above reflects the description used by the Council in their decision notice. This more concisely describes the development than that description given in the application form. I have therefore proceeded with the appeal on this basis.

Main Issue

4. The main issue is the effect that these proposed opening times would have on the living conditions of neighbouring residents, with regard to noise and disturbance.

Reasons

5. The appeal site comprises a commercial unit located within a parade of mixed building uses. These units line North Road, which leads into the town centre of Headingley. The immediate vicinity of the appeal site is commercial in nature, although surrounding streets are residential and host a large student population.
6. The Council references various iterations of a Cumulative Impact Policy (CIP) document pertaining to Headingley. This demonstrates anti-social behaviour is a major issue in this area, caused largely by night-time economic factors such as bars and takeaways. While I appreciate it is not a long extension to opening hours and the business owner would like to increase their share of the local market for takeaway food and bring the opening hours in line with bars in the area, the Council states the current opening times align with similar establishments in the area. I have no evidence to the contrary. As such, the appeal site would not be at a disadvantage when competing with other businesses with regards to opening hours. However, the extra opening time would result in additional noise and disturbance from patrons visiting the takeaway and vehicle movements at a time when residents could reasonably expect a degree of peace and quiet. As such, while the additional opening hours would be of benefit to the owner, this would not outweigh the harm to occupiers of nearby properties with regards to their living conditions.
7. Accordingly, I conclude that the disputed condition is reasonable and necessary in order to safeguard the living conditions of local residents and that it satisfies the other tests for conditions set out in paragraph 55 of the National Planning Policy Framework (the Framework). The proposed extension to opening hours of the takeaway would be harmful to the living conditions of neighbouring residents in terms of noise and disturbance. As such the proposal is contrary to Policies P10 of the Leeds Core Strategy and GP5 of the Leeds Unitary Development Plan Review. It would also be contrary to the aims of paragraph 127 of the Framework. Together, these seek to ensure development protects the general amenity of an area for existing and future users.

Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR