



Appeal Decision

Site visit made on 27 July 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2020

Appeal Ref: APP/C4235/W/20/3248068

32 Bramhall Lane South, Bramhall, Stockport SK7 1AH

- 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 Afshin Sajedi against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/074693, dated 20 September 2019, was refused by notice dated 11 November 2019.
 - The application sought planning permission for use of the ground, first and second floor to the front of the premises for A3 (cafe/restaurant). Erection of a three storey extension to rear of building for A2 (office) at ground floor and C3 (residential) at first and second floors and alterations to the external appearance of the building without complying with a condition attached to planning permission Ref DC/067103, dated 19 December 2017.
 - The condition in dispute is No 2 which states that: No part of the restaurant shall be open for trading purposes nor operate for the purposes of food preparation, nor shall customers be present on the premises before 8am and after 11pm.
 - The reason given for the condition is: In order to minimise the impact of the proposed use upon the amenities of the residents of nearby properties in accordance with Policy SIE-1 "Quality Places" of the adopted Stockport Core Strategy DPD.
-

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.

Main Issue

3. The effect that varying the opening hours would have on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons for the Recommendation

4. Condition 2 of planning permission ref DC/067103 allows part of 32 Bramhall Lane South to be operated for café/restaurant purposes (A3) between 0800-2300. The appellant seeks to alter the hours of operation to 0700-0200.

5. The appeal site is located on a corner plot at the junction with Bramhall Lane South and Lumb Lane on the periphery of a designated district centre. However, Lumb Lane is a residential street and is not located within the district centre, but within a predominantly residential area. Thus, there are residential properties in close proximity of No. 32.
6. I note that the planning approval associated with the A3 use also included residential accommodation at first and second floor¹. From the evidence submitted, it appears that this residential use has not yet been implemented.
7. I accept that the occupiers of the neighbouring properties would be used to a certain degree of noise and activity associated with the current operation and the surrounding uses particularly during the day and early evening in this location on the edge of the district centre. However, the proposed additional hours, especially in the early hours of the morning, would be at a time when occupiers of the nearby residential properties would reasonably expect a degree of peace and quiet when they would wish to sleep. Due to the proximity of residential properties, the sought opening hours are likely to result in additional noise and disturbance from patrons visiting the A3 use and vehicle movements at this time and as such would adversely harm the living conditions of those occupiers, even if the amended opening hours were only applied on a Friday and Saturday.
8. Both main parties highlight that there are other establishments within the local area which benefit from later opening hours. In particular, Yard Bird has a planning condition allowing it to open until 0030 Sunday to Thursday and 0200 on Friday and Saturday's. Additionally, Tre Ciccio has a condition restricting its hours until 0100.
9. However, I noted on my site visit that Yard Bird and Tre Ciccio are situated towards the centre of the shopping area. Therefore, the distance to residential properties is greater in comparison to the appeal site which is located towards the edge of the district centre. A direct comparison between the appeal site and these establishments thus cannot be made.
10. I acknowledge that the business is protected by a private security firm and the appellant has highlighted that they can be called if there are any issues regarding disturbance. However, the use of a security company would normally be used in situations relating to anti-social behaviour rather than the general noise and disturbance associated with the comings and goings of patrons. In the event that the security company are called, the disturbance would have already occurred. Therefore, it would not be a preventative measure.
11. I note that the appellant has received requests from customers to extend their opening hours on Fridays and Saturdays. In addition, a copy of a petition has been submitted with the appeal. Although the additional opening hours would be of a benefit to the owner and customers, this would not outweigh the harm identified above.
12. The appellant's statement of case focuses primarily on the objections received by neighbouring occupiers rather than the reason the Council refused the application. The appellant appears to have misinterpreted the first objection. The objection comment relates to the fact that families, with children, live on

¹ Planning application reference: DC/067103

Lumb Lane and the proposed hours would result in noise and disturbance, which I have considered above. I note the appellant's comments regarding vermin, parking and litter. However, these are matters not related to the main issue and could be controlled by other means. They do not therefore outweigh the harm identified.

13. Accordingly, condition 2 is reasonable and necessary in its current form to protect the living conditions of neighbouring residents. For the reasons above the proposed extended opening hours would have an unacceptable impact on the living conditions of nearby residents, with particular regard to noise and disturbance. The proposal therefore would conflict with Policy SIE-1 of the Stockport Metropolitan Borough Council Local Development Framework: Core Strategy DPD (2011). This policy and the National Planning Policy Framework seek, amongst other matters, to ensure neighbouring uses are compatible and a high standard of amenity is maintained for existing and future occupiers.

Conclusion and Recommendation

14. For the reasons given above I recommend that condition 2 should not be varied and the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR