



Appeal Decision

Site visit made on 28 July 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 24th August 2020

Appeal Ref: APP/Z2315/W/20/3250540

82 Coal Clough Lane, Burnley BB11 4NW

- 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 Muhammed Umran against the decision of Burnley Borough Council.
 - The application Ref COU/2020/0023, dated 13 January 2020, was refused by notice dated 23 March 2020.
 - The development proposed is change of use of ground floor from residential to a retail shop and flat to first floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - i) The living conditions of the residential occupiers of 84 Coal Clough Road, with particular regard to noise and disturbance; and
 - ii) The character and appearance of the area.

Reasons

Living conditions

3. No 82 is a modest 2 storey terrace property. The part of the terrace that extends from St Matthews Street and includes the neighbouring property, No 80, is in the Coal Clough Lane district centre. The commercial properties have flush frontages and they open onto the footway. The remainder of the terrace, Nos 82-92, is characterised by residential properties with ground floor bay windows and small front gardens enclosed by low boundary walls.
4. The proposal would result in increased comings and goings in and around the appeal property, when compared to its residential use. The removal of the bay window and the boundary wall to the front of No 82 would allow an increase in activity in close proximity to the front door and the ground floor habitable room window of No 84. Consequently, there would be an increase in noise and disturbance to the neighbouring residential occupiers of No 84.
5. In addition to the external activity, noise associated with the retail use of the property could transmit internally and disturb the neighbouring residential occupiers. There is no evidence that the appellant's current retail premises

result in adverse levels of noise or disturbance. However, it has not been demonstrated that the noise associated with the retail use of the appeal property would not give rise to adverse impacts on the occupiers of No 84.

6. While I note the opening hours of the appellant's existing premises, the opening hours of the appeal proposal are not specified. Therefore, it could result in noise and disturbance outside of normal retail hours and at otherwise quieter times of the day and week when the neighbouring residential occupiers might reasonably expect to enjoy their home free from significant disturbance.
7. Therefore, the proposal would result in harm to the living conditions of the neighbouring residential occupiers of No 84, with particular regard to noise and disturbance. It would conflict with Policy TC6 of Burnley's Local Plan Adopted July 2018 (the LP) which requires, among other things, that development within and adjacent to the district centres does not unreasonably harm the amenities of local or adjoining residents or users.

Character and appearance

8. The residential part of the terrace that includes No 82 is characterised by a coherent group of properties with matching frontages and ground floor bay windows. There is a continuous monopitch canopy above the front doors and ground floor windows. Properties are separated from the footway by boundary treatments comprising low stone walls, several of which have metal railings. Consequently, the group has a traditional and harmonious character and appearance.
9. As part of the proposal, there would be alterations to the front of the property. The bay window and monopitch canopy would be removed and replaced by a flush commercial frontage with a roller shutter. The low front boundary wall with metal railings would be also be removed.
10. The nearby commercial properties are flush-fronted, with varied ground floor commercial frontages and fascia signs, and they open onto the footway. Therefore, the proposed external alterations would be in keeping with the character and appearance of the commercial premises in the district centre. However, the proposal would not respect No 82 and it would not be sympathetic to the residential part of the terrace. Consequently, it would erode and diminish local distinctiveness and the traditional townscape character.
11. Therefore, the proposal would result in significant harm to the character and appearance of the property and the area. It would conflict with Policy SP5 of the LP which requires, among other things, that development respects locally characteristic street layouts and townscape settings.
12. The appellant states that would be willing to retain the bay window. However, no amended plans have been submitted to illustrate an alternative scheme or how the existing front elevation could be integrated into a commercial frontage. On this basis, I cannot be certain that an amended scheme would avoid the harm to the character and appearance of the area.

Other matters

13. The commercial premises currently occupied by the appellant's business will not be available when the tenancy agreement expires. Although the evidence indicates that the business is not currently profitable, I acknowledge that it

provides some economic and social benefits including employment opportunities and support for local tradespeople and vulnerable members of the community. Nevertheless, and notwithstanding that the appellant has investigated other properties in the area, there is little substantive evidence to demonstrate that there are no suitable available commercial properties elsewhere that could deliver similar benefits while avoiding the harm that I have found.

14. The appellant has drawn my attention to support for the scheme from the current occupiers of No 84. However, while the neighbours had the opportunity to comment on the proposal, including through the appeal process, there are no third party representations either objecting to or in support of the proposal. In any case, I am required to be mindful of the way in which future occupiers might reasonably expect to use the property and I must consider the use over its lifetime. Therefore, this is not a matter that weighs in favour of the scheme.
15. Proposals are required to accord with the requirements of relevant planning policy. In this case, the proposal would conflict with the development plan. Therefore, even if there is little demand for housing in this area, this would not weigh in favour of the scheme. Similarly, the previously poor state of repair of the property is not a justification for the proposal.

Conclusion

16. The proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR