



Appeal Decision

Site visit made on 12 November 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2020

Appeal Ref: APP/P0240/W/20/3255856

32A High Street, Toddington LU5 6BY

- 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 N Hussain against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/00215/FULL, dated 20 January 2020, was refused by notice dated 15 April 2020.
 - The development proposed is change of use application from A3 to A5 takeaway and installation of extractor canopy at rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed extraction flue would preserve or enhance the character or appearance of the Toddington Conservation Area (TCA); and the effect of the proposed use and extraction flue on the living conditions of neighbours with regard to noise and odours.

Reasons

Character and appearance

3. The appeal property is a two-storey, end building which is being operated as a hot food takeaway with a flat above. It forms part of a small parade of buildings along the western side of High Street. The appeal site lies within the TCA, which includes a number of nearby listed buildings.
4. The significance of the TCA is largely derived from the architecture of its traditional and historic buildings. These buildings collectively contribute to the quality of the TCA. Even though the appeal property has been altered it is settled within the street scene and its overall form and appearance complement the character and appearance of the TCA.
5. In particular, due to the nearby Methodist Church being appreciably set-back from the High Street, the flank elevation of the appeal property and the area behind it are partly exposed and visible in viewpoints from the south. This includes the highway and the grounds of the Methodist Church.
6. Despite being located to the rear of the appeal property, the proposed extraction flue would be of an appreciable diameter with a height that would exceed the eaves of the host building. Along with its aluminium fabrication, the

extraction flue would comprise a sizeable addition to a prominent building. In particular, the appearance of the extraction flue would contrast starkly with the built form of the appeal property and the landscaping about it. Consequently, the extraction flue would appear particularly uncharacteristic and incongruous, resulting in significant visual harm, particularly in views from the south of the site. The appellant has drawn my attention to other installations in the locality, but none of these are of a comparable scale and appearance.

7. Consequently, the extraction flue would be harmful to the character and appearance of the appeal property and area, and the significance of the TCA would be harmed.
8. The appellant has suggested that the external finish of the flue could be secured by a planning condition. Nonetheless, in the absence of any details of this, I cannot be certain that this would address my concerns.
9. The harm the proposal would cause to the significance of the TCA would be less than substantial. Paragraph 196 of the National Planning Policy Framework ('the Framework') states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this case, no specific public benefits have been identified. Nevertheless, whilst the proposal makes use of the appeal property, this is only a single building within the heritage asset and therefore this and any benefits associated with it attract limited weight.
10. Having special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area¹, despite finding the harm to be less than substantial, I still attach significant weight to this. Such harm can be outweighed by public benefits. Having given limited weight to the public benefits in this case, they are not sufficiently forceful to outweigh the less than substantial harm that I have identified.
11. Drawing on the above reasons, the proposed extraction flue would fail to preserve or enhance the character or appearance of the TCA. The Council's decision notice does not refer to any specific development plan policy. Nevertheless, any such policy would need to be consistent with the Framework. Accordingly, I find conflict with the relevant provisions of the Framework for conserving and enhancing the historic environment.

Living conditions

12. On the information before me, the Council's specific concerns are the effects of cooking odours from the takeaway use and the noise from the proposed extraction flue on the living conditions of neighbours. In particular, the occupiers of the flat above the appeal property. To address these concerns the appellant has provided a drawing of the extraction flue, its technical specification and a noise assessment.
13. The submitted information includes the design and layout of the extraction flue, which incorporates a high-level discharge point above the eaves of the appeal property. The specifications and locations of the odour control unit, fan and other components along with information on grease and odour filters are also

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

provided. To attenuate noise and vibration the design incorporates a silencer, anti-vibration mounts and acoustic treatment for the fan.

14. Although the Council argue that the submitted noise assessment is not in accordance with the correct British Standard, there is nothing before me to show that this should only be undertaken in accordance with a specific British Standard. The appellant's evidence also confirms that, as suggested by the Council, the design of the extraction flue has been informed by Annex B of the former guidance 'Commercial Kitchen Extract Systems' issued by the Department for the Environment, Food and Rural Affairs.
15. The submitted noise assessment concludes that the noise being emitted from the proposed extraction flue would be non-tonal, not intermittent and not impulsive. Furthermore, this assessment predicts that the risk of complaint in respect of the extraction flue would be low.
16. Based on the specification provided and subject to implementation and appropriate maintenance, the proposed extraction flue would appropriately deal with grease and provides an adequate level of odour control and abatement.
17. For the above reasons, and in the absence of any clear information to the contrary, the proposed use and extraction flue would not harm the living conditions of neighbours with regard to noise and odours. Therefore, the proposal accords with Policy BE8(viii) of the South Bedfordshire Local Plan Review, which requires that development likely to generate noise, disturbance and other pollution emissions does not unacceptably disturb or otherwise affect adjoining properties and uses.

Conclusion

18. Although I have found that the proposed use and extraction flue would not harm the living conditions of neighbours with regard to noise and odours, the proposed extraction flue would fail to preserve or enhance the character or appearance of the TCA. For this reason, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR