



Appeal Decision

Site visit made on 16 November 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/V2255/W/20/3248640

Faversham Laundry, 29 Ashford Road, Faversham ME13 8XN

- 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 Richard Cope of Faversham Linen Services against the decision of Swale Borough Council.
 - The application Ref 19/502925/FULL, dated 4 June 2019, was refused by notice dated 17 October 2019.
 - The application sought planning permission for retrospective planning application for the retention of the existing laundry building in its as-built condition without complying with conditions attached to planning permission Ref 15/510051/FULL, dated 21 March 2019.
 - The conditions in dispute are Nos 14 and 15 which state that:
Condition 14 - The use of the premises hereby permitted shall be restricted to the hours of 7am to 10.30pm on weekdays, 7am to 4.30pm on Saturdays and 7am to 8.30pm on Bank Holidays. The use shall not operate on Sundays unless for planned maintenance that has been agreed in writing by the Local Planning Authority.
Condition 15 - Deliveries (or other vehicle movements to and from the site) shall only take place between 4.00am and 10.30pm Monday to Friday, 4.00am to 12.00 noon on Saturdays, and between 4am and 2.30pm on Bank Holidays; and no more than a total of four lorry movements shall take place between 4am and 7.00am and between 7.00pm and 10.30pm on any day. No deliveries shall take place on Sundays.
 - The reasons given for the conditions are:
Reason 14 - In the interests of the amenities of the area.
Reason 15 - In the interests of the amenities of the in full (sic).
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The original laundry building was demolished by fire in June 2013. A replacement laundry building has been built following a grant of planning permission. This proposal seeks to vary conditions 14 and 15 imposed upon the replacement laundry building permission to extend operation and delivery hours to enable the laundry business to operate more flexibly. The main issue is the effect that varying conditions 14 and 15 would have on the living conditions of neighbouring residents.

Reasons

3. The replacement laundry building was subject to various measures that would minimise the effect of the operations at the laundry upon the living conditions of neighbouring occupiers. These measures included the insulation of the external walls and roof of the building and careful design of the ventilation and flues to minimise noise emissions. An acoustic fence has been erected along the northern boundary of the site. This was required to reduce noise breakout and deflect noise.
4. The proposed variation to condition 14 is to extend the use of the premises to operate until 10:30pm on Bank Holidays, rather than 8.30pm, and to allow the business to operate on a limited number of Sundays in July and August with the specific dates/numbers of Sundays agreed in writing with the local planning authority beforehand. The information that supports the planning application explains that Bank Holidays are often the laundry businesses busiest periods. Operation on Sunday is intended to facilitate contingency measures, such as a mechanical break-down/power failure events beyond the control of the business. The Council's expert adviser, Mid Kent Environmental Protection, has not raised an objection to the proposal taking account of the previously required noise mitigation works. I consider the noise mitigation measures that have be implemented would be sufficient to ensure satisfactory living conditions would be maintained for neighbouring occupiers.
5. The proposed variation to condition 15 would increase lorries carrying out deliveries between 4.00am and 7.00am and between 7.00pm and 10.30pm on any day to five movements, rather than four. It is explained that on three days a fortnight the laundry business requires the use of a fifth delivery vehicle to service channel port ferries and increased flexibility is necessary to accommodate this. The timing of lorry movements set out within this condition would not change. I consider that the noise mitigation measures, as discussed above, would be sufficient to ensure satisfactory living conditions would be maintained for neighbouring occupiers.
6. The variation also seeks to remove the reference to 'or other vehicle movements to and from the site' from the wording of Condition 15 to facilitate access and egress of staff outside of the restricted lorry delivery periods. This appears to me to be a logical variation as it would facilitate staff access when the business is in operation beyond delivery time restrictions.
7. A neighbouring resident highlights that the replacement laundry building is more imposing than the previous Victorian building that burnt down, however planning permission is in place for the replacement laundry buildings. Another neighbouring occupier has experienced some noise disturbance at peak operational times. The proposed changes to operation and delivery hours at the replacement facility are very limited and would not substantially extend business operations beyond those present and approved operations at the site.
8. New residential development has been granted planning permission by the Council at adjoining land, some of which is under construction. However, it appears to me that those developments have been permitted in the knowledge of the existence of an established laundry business at the appeal site.
9. I do not consider the extended operation hours and increased vehicle movements would subject existing neighbouring occupiers to increased periods

of noise, nuisance and disturbance that would cause significant harm to their living conditions. In addition, I consider that the existing noise mitigation measures that are in place would be sufficient to ensure satisfactory living conditions for future neighbouring occupiers. The proposal would, therefore, not materially conflict with Policy DM14 of the Swale Borough Local Plan Bearing Fruits 2031 that requires, amongst other matters, development to cause no significant harm to amenity.

10. The replacement laundry building was subject to a legal agreement that secured the provision and future maintenance of the acoustic fence and ivy planting. The Council indicates that a deed of variation pursuant to that legal agreement is necessary to ensure the future maintenance of the acoustic fence and ivy planting. Whilst the appellant has indicated that a deed of variation of the legal agreement is being prepared and an opportunity has been provided for its submission, no such legal agreement has been forthcoming.
11. The acoustic fence and ivy planting is required to reduce noise breakout and deflect noise. This was a fundamental part of the acceptability of the replacement laundry building planning permission. A deed of variation of the legal agreement is, therefore, reasonable, necessary and directly related to the development to ensure the green acoustic fence is maintained in order to protect the living conditions of neighbouring occupiers. Therefore, this proposal would be unacceptable in planning terms without such a legal mechanism in place. As no such legal mechanism is in place the proposal must fail.

Conclusion

12. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR