The Planning Inspectorate

Appeal Decision

Site visit made on 16 November 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2021

Appeal Ref: APP/W4705/W/20/3257788
74 Lilycroft Road, Bradford BD9 5AB

- 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 Mohammed Awan against the decision of City of Bradford Metropolitan District Council.
- The application Ref 20/01882/FUL, dated 10 May 2020, was refused by notice dated 14 July 2020.
- The development proposed is placement of steel container to function as A3 planning use class.

Decision

1. The appeal is allowed and planning permission is granted for placement of steel container to function as A3 planning use class at 74 Lilycroft Road, Bradford BD9 5AB in accordance with the terms of the application Ref 20/01882/FUL, dated 10 May 2020, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. When on my site visit, I observed that the proposal was already in place and in use. I also note that the application has been submitted retrospectively. I have therefore dealt with the appeal on this basis.

3. The appellant has raised concerns regarding the Council's handling of the case, and in particular with regard to perceived lack of constructive discussions and engagement from officers. This is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal property is situated towards the back end of a car park to the rear of nos. 74 and 78 Lilycroft Road which both comprise commercial premises. To the rear and side of the appeal site are several other car parks. Both the car park where the appeal site is located, and these other nearby car parks are served by an access road running from Lilycroft Road towards and past the appeal site eventually joining Patent Street where several large buildings with natural stone façades are located. There is also a large car park in between the part of the access road nearest the appeal site and Patent Street.

6. On the opposite side of this access road there is a supermarket called the 'Park Bazaar' which also fronts Lilycroft Road with its side elevation facing the smaller access road as well. Several large orange metal storage containers are located behind this supermarket building with two smaller metal recycling containers also being in the car park immediately behind the appeal site. Rows of single-storey terraced housing are located on Chassum Grove which is to the rear of this car park and also on the other side of the appeal site.

7. Taking into account the presence of the large stone-clad buildings on Patent Street, the supermarket, the commercial premises at nos. 74-78 Lilycroft Road, and the nearby residential properties, I consider the character and appearance of the area to be somewhat mixed with there being a clear variation in the external finishes, designs and materials of the buildings located there.

8. I acknowledge that the proposal, which from the rear and side appears to be another metal container potentially compounds the negative visual impact of the existing containers in the area. However, according to the appellant's evidence composite cladding would be added to the rear and side elevations in order to mitigate this impact. As a result, I am satisfied that this mitigation measure can be secured via the imposition of a suitably worded condition.

9. I also acknowledge the Council's point that the proposal would have solid roller shutters which would deaden the street scene and not let light out from the premises into the public realm in conflict with the adopted '*A Shopkeepers Guide to Securing their Premises*' Supplementary Planning Document (SPD). However, based on the evidence before me the proposal appears to have perforated roller shutters which allow a good deal of light out onto the public realm in accordance with the guidance contained within the SPD and its Design Principle 2. Furthermore, these perforated roller shutters are not the only security measure which the proposal relies on with the fenestrations comprising laminated security glass, in accordance with Design Principle 1 of the SPD.

10. I also note from their statement that the Council considers the proposal to be part of the street scene on Lilycroft Road as it is clearly publicly visible from there. However, from what I observed on my site visit this is only from an oblique angle as when viewed 'straight-on' the proposal is only partially visible. Moreover, given the sizeable distance between the proposal and the footpath on Lilycroft Road, and the fact that it is located behind nos. 74-78, it does not front onto Lilycroft Road and therefore does not form part of its street scene either.

11. Consequently, given the proposal's location, height and design, it does not have an adverse visual impact the character and appearance of the area. It also brings into use a deadened part of the streetscape on the part of the access road where it is located in accordance with the SPD.

12. Accordingly, I conclude that the proposal does not materially harm the character and appearance of the area and as a result, meets the requirements of policies DS1, DS3 and SC9 of the adopted Bradford District Core Strategy Development Plan Document.

Other Matters

13. One objection was made to the original application by an interested party which raised concerns relating to the proximity of a takeaway to a nearby school, waste and highway safety. However, the proposal is not for a takeaway and therefore the relevant Policy is not applicable in this case. Furthermore, no objections have been received to the proposal by either the Highway Authority or the Council's

Environmental Health department. Consequently, based on the evidence before me, I afford these matters little weight in my decision.

Conditions

14. The Council has suggested several conditions that it considers would be appropriate. The appellant has also suggested one condition relating to opening hours that they consider would be appropriate which differs from a similar one suggested by the Council and from what was originally suggested by the appellant on the original application form. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the suggested wording.

15. As this is grant of permission is retrospective, I have not imposed the standard implementation condition as suggested by the Council.

16. For the avoidance of doubt, I have imposed a necessary condition to ensure that the development is retained in accordance with the approved plans.

17. I acknowledge the Council's suggestion that the premises should not be permitted to open past 2200 hours due to its proximity to residential properties on Chessum Grove. However, no substantive evidence, such as a formal notice, has been submitted to support this which suggests that noise disturbance has not been an issue at the appeal property in the past nor that any noise or disturbance was directly related to or caused by the business.

18. As a result, and given the fact that the business has been in operation for a period of time, it would be reasonable to think that the development has not caused any unacceptable noise or disturbance to its neighbours. Moreover, I consider that this is likely to be as a result of the way the nature of the business and how it has been run. Consequently, I see no reason why the proposal should not be permitted to be open to a time later than 2200 hours. I have therefore imposed a reasonable and necessary condition to restrict the hours that the premises would be open to customers which would also allow a reasonable amount of time for people on the premises to finish their meals and leave after the prescribed closing time.

19. In the interest of the character and appearance of the area I have imposed a necessary condition to ensure that details of a scheme for the external cladding of the rear and side elevations of the proposed outbuilding are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the external cladding before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

20. For the reasons set out above I conclude that the appeal should be allowed.

C Coyne

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be retained in accordance with the approved plans: Site Location Plan dated May 2020; Proposed GA Plans & Elevations dated May 2020; Proposed Site Plan dated May 2020.

2) The premises shall only be open for customers between the following hours:
1200 - 0000 (Midnight) Sundays – Fridays and Bank Holidays
1200 Saturdays - 0100 Sunday mornings.

3) Unless within 3 months of the date of this decision a scheme for the external cladding of the rear and side elevations, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the premises as a café shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

   If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the premises as a café shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

   Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

   In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.