



Appeal Decision

Site visit made on 2 February 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/U4230/W/20/3261482

J Rosenthal & Son, Units 1 & 2 Ravenscraig Road, Little Hulton, Worsley M38 9PU

- 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 Ms Gill Crolla of J Rosenthal & Son against the decision of Salford City Council.
 - The application Ref 20/75169/COU, dated 17 April 2020, was refused by notice dated 4 August 2020.
 - The application sought planning permission for a change of use from film studio to B1 and B8 Use Classes without complying with a condition attached to planning permission Ref 10/58639/COU, dated 21 May 2010.
 - The condition in dispute is No 2 which states that:
'The use hereby permitted shall only be operated between the hours of 07:00 to 19:00 Monday to Friday, and 08:00 to 12:00 Saturday, Sunday and Bank Holidays'.
 - The reason given for the condition is:
'To safeguard the amenity of the neighbouring residents in accordance with policy DES 7 of the City of Salford Unitary Development Plan'.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from film studio to B1 and B8 use classes at Units 1 & 2 Ravenscraig Road, Little Hulton, Worsley M38 9PU in accordance with the application Ref 20/75169/COU, dated 17 April 2020, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref 10/58639/COU, dated 21 May 2010, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P112 Building 2 floor plans and Building 1 floor plans submitted on 4th March 2010.
 - 2) Machinery shall be operated, processes shall be carried out, and the premises shall only be open for trade or business between the following hours:
06:00 and 22:00 from Mondays to Fridays
06:00 and 17:00 on Saturdays, Sundays and Bank or Public holidays.
 - 3) HGV deliveries shall be taken at or despatched from the site only between 07:00 and 19:00 from Mondays to Fridays, and between 08:00 and 16:00 on Saturdays, Sundays and Bank or Public Holidays.

- 4) The development hereby approved shall be operated in accordance with the submitted Traffic Management and Noise Control Plan (Version 2, dated 14th July 2020).

Background and Main Issue

2. Planning permission was granted for the change of use of a former film studio to B1 and B8 uses in 2010 by permission Ref: 10/58639/COU ("the original permission"), which restricts the operating hours of the appeal site. The appellant company imports and distributes curtains, bedding and other similar goods, and began operations from the site in 2011.
3. In response to a recent increase in demand for home deliveries the appellant wishes to extend the permitted operating hours, and therefore applied to amend Condition 2 of the original permission so that the premises can operate between 06:00 and 22:00 from Monday to Friday, and between 06:00 and 17:00 on Saturdays, Sundays and Bank or Public holidays. The Council refused this application because it considered that noise and other disturbance arising from the extended hours would have a detrimental effect on neighbours' living conditions.
4. The main issue is therefore the effect that varying the permitted operating hours would have on neighbouring residents' living conditions in respect of noise and disturbance.

Reasons

5. The appeal site contains two principal buildings which are used for storage and distribution by the appellant company. It is an established employment site, with a roofing business operating from the adjacent site to the south east on Ravenscraig Road. Further southeast along Ravenscraig Road is part of a large site known as Ashton's Field, where a development with planning permission for up to 18,581m² of employment uses (within B1(b), B1(c), B2 and B8 use classes, as well as ancillary B1(a) office space) was under construction at the time of my site visit.
6. To the south west, on the other side of and accessed from Ravenscraig Road, is the residential area of Brookdale Park, a permanent residential caravan site. Residents of Brookdale Park consider that the industrial and commercial uses on Ravenscraig Road, including the appeal site, already have a detrimental effect on their living conditions because of noise disturbance arising from vehicles (particularly HGVs) waiting with engines running on Ravenscraig Road, and safety concerns caused by vehicles being driven or parked unsafely. Residents' representations expressed their concern that these matters would be exacerbated by the proposed extended operating hours.
7. I visited the appeal site in the middle of a working weekday, and found there to be a general level of noise which would normally be associated with the operations of a storage and distribution business. I recognise that it only represents a snapshot of a particular moment, but while there was intermittent noise from vehicles accessing the appeal site and other premises on Ravenscraig Road to my mind this did not appear either excessive or intrusive. In fact, I found the background noise from traffic on the M61 motorway a short way north of the site to be as noticeable as noise from the appeal site and its

neighbours, although again I acknowledge that this represents a moment in time and local residents may well have a different perception.

8. I note that neither the roofing business next to the appeal site or the development underway on Ashton's Field are subject to restrictions on their operating hours, although the Ashton's Field permissions include conditions in respect of noise and traffic management. Regardless of this, given the proximity of the appeal site to the residential units within Brookdale Park I am satisfied that it is both reasonable and necessary for the operating hours and delivery times for the appeal site to be controlled in order to protect residents' living conditions, and indeed the appellant does not argue otherwise.
9. In response to concerns about HGVs waiting on Ravenscraig Road outside operating times, the appellant provided images from CCTV showing lorries which were not associated with their operation parked up during the early hours the morning. Furthermore, the appellant has indicated that deliveries to the site come from Trafford Park, which is relatively local, and with a first delivery slot of 07:30 (08:00 at weekends) there should be no need for HGVs to wait on Ravenscraig Road, other than when one vehicle needs to clear the loading area before another can enter. In terms of future operations of the site, the appellant has indicated that the proposal would not require deliveries or collections by HGV outside the existing approved operating hours on weekdays, although there could be a need for up to 8 additional HGV deliveries or collections on weekend days.
10. On the basis of the evidence before me and my observations on site, I consider that the extended operating hours and associated additional deliveries could be carried out without causing unacceptable harm to neighbouring residents. The Council has suggested an additional condition which would limit the hours at which HGV deliveries and collections could be made. This would allow HGVs to service the site between 07:00 and 19:00 from Monday to Friday – in other words, the existing permitted operating hours – and from 08:00 to 16:00 on Saturdays, Sundays and Bank or Public Holidays, which would ensure that HGV movements were not taking place at unsociable hours. This suggested restriction seems to me to be both reasonable and necessary to provide a safeguard for residents, and I note that the appellant does not object to its imposition.
11. There are no restrictions on vehicular access to Ravenscraig Road nor at the time of my site visit were there any parking or waiting restrictions in place. I saw that there were many cars and vans parked on the road and footways although it was not possible to identify which businesses on Ravenscraig Road, if any, these were associated with. I note that the Council's officer report indicates that its highways team had no concerns about the impact of the proposed change on the highway network, including on-street parking. Notwithstanding this, in response to concerns raised about parking and other matters raised by neighbouring residents, the appellant has submitted a Traffic Management and Noise Control Plan ("the TMNCP").
12. The TMNCP sets out various measures which the appellant will adopt to minimise disturbance caused to neighbouring residents, including monitoring and controlling noise from staff during unsociable hours, monitoring and controlling staff parking, relocating smoking area and cycle sheds further away from the neighbouring residential site, and improving operational processes to

reduce noise (such as not leaving operational doors open during unsociable hours, using an alternative site exit to reduce staff vehicle movements which may cause excess noise, and a review of the use of sound insulation or acoustic baffles at the site boundary). The TMNCP also provides for regular meetings between the appellant company and residents of Brookdale Park to liaise on noise and other impacts. While these may all be measures which any “good neighbour” occupier should be thinking about anyway, clearly there are many instances where this is not the case. In view of the proposed extended operations on the appeal site, and the associated potential for increased disturbance to neighbouring residents if the site is not well-managed, I consider that it is both reasonable and necessary for the appellant’s commitments to their neighbours to be formalised by putting the TMNCP in place.

13. Local residents have also referred to problems caused by dust, although to the extent that this can be attributed to any of the uses on Ravenscraig Road, based on what I saw on my site visit it seems most likely that this stems from the construction work taking place at Ashton’s Field. There is no substantive evidence before me indicating that unacceptable nuisance arising from dust stems from the operations on the appeal site. Interested parties also referred to operations at another of the appellant’s sites being treated differently, including in the restrictions imposed on operating hours. While I am not aware of the other facility referred to, I understand that it is in Bury, several miles from the appeal site and within a different planning authority area. I have reached my decision in this case based on the details of this specific proposal, the evidence before me, and my observations on site.
14. I am satisfied that, subject to the imposition of appropriate conditions to control the hours at which deliveries by HGV are received or despatched, and which require the units to operate in accordance with the submitted Traffic Management and Noise Control Plan, varying the disputed condition to allow an extension of operating hours would not have an unacceptable adverse effect on neighbouring residents’ living conditions in respect of noise and disturbance. The development would therefore comply with Policy EN17 of the 2006 City of Salford Unitary Development Plan (“the UDP”), which seeks to ensure that development does not cause unacceptable harm or nuisance by way of noise or other disturbance.

Conditions

15. For clarity and to ensure compliance with the tests in the National Planning Policy Framework and Planning Practice Guidance (“the PPG”), I have made minor amendments to the Council’s suggested conditions where necessary.
16. I have deleted the disputed Condition 2 as indicated above, and replaced it with a new condition (2) specifying the permitted operating hours for the use of the premises.
17. I have imposed further conditions restricting the hours at which deliveries can be taken or despatched (3) and requiring the development to be operated in accordance with a Traffic Management and Noise Control Plan (4). As I have explained above, I consider that these are necessary to ensure that the extended operating hours do not lead to unacceptable noise and other disturbance being caused to residents of Brookdale Park, and to ensure that the development complies with the requirements of Policy EN 17 of the UDP.

18. The PPG makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. With the development now being occupied, I have deleted Condition 1 of the original permission as the standard time limit for the commencement of development is no longer necessary. I have reimposed Condition 3 of the original permission specifying the approved plans as it continues to have effect – this is now Condition 1.

Conclusion

19. For the reasons given above I conclude that the appeal should succeed. I will therefore grant a new planning permission without the disputed condition 2 but substituting another, with two further conditions added, and with the undisputed 'approved plans' conditions which is still subsisting and capable of taking effect restated.

M Cryan

Inspector