



Appeal Decision

Site visit made on 16 August 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2021

Appeal Ref: APP/N4720/W/21/3278034

12C-12D Austhorpe Road, Cross Gates, Leeds LS15 8DX

- 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 Christopher Reading against the decision of Leeds City Council.
- The application Ref 21/01674/FU, dated 13 February 2021, was refused by notice dated 4 June 2021.
- The development proposed is described as 'We are applying for a change of use from a single sex gymnasium to create multi functional room which is to also include a licensed bar area and a stage area for music and any events requiring a host / guest speaker on stage. the proposed works entail :The removal of existing showers to create male and female toilets Installation of a suspended ceiling for lighting and minimise heating / cooling costs Secondary glazing installed at the front of the property to avoid noise nuisance Vinyl flooring throughout upon the removal of the carpeted areas A bar area installed to facilitate a variety of fuctions (hot / cold / alchoholic drinks) A stair lift to be installed on the rear staircase for less abled persons A kitchen/prep room (glasswasher, ice machine, hand sink, fruit prep area) No cooking facilities will be used at this premises, any events where food is required, will be brought in from outside caterers at only kept warm if required. All cooking will be done off site. This room will be used by locals for a multitude of events, and contacts with the local community which I am part of have shown it is welcomed greatly as other local rooms for hire are always in a licensed environment and not always convenient for the event. (H&S training, Kids party, art class) Our Alcohol license permits us to 2 alcohol functions sunday-saturday and restricted opening hours to ensure noise is kept to a minimum by ourselves and patrons leaving the premises'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice to 'Change of use from gymnasium to create multi functional room with licensed bar area and a stage area for music and events'.
3. I can understand the reasons for this given its original length. The appellant has included the revised description on their appeal form and it effectively, more succinctly describes the proposal. While I acknowledge the details provided in the original description, I have determined the appeal on the basis of the revised and subsequently adopted description.

4. At the time of my visit, the venue was no longer in use as a gym and was fitted out for the use proposed. The internal arrangement did however alter slightly from the plans submitted in respect of the bar area and the stage layout. However, for the avoidance of doubt, I am determining the appeal based on the submitted plans.

Main Issues

5. The main issues are the effects of the proposal on the living conditions of nearby residential occupiers with regard to noise and disturbance and whether the lack of level access to the first floor would be acceptable in terms of accessibility.

Reasons

Living conditions

6. The venue occupies the first floor of a building, accessed via stairs from both the front and rear of the property. It is located on Austhorpe Road, which has a vibrant, mixed commercial and residential character.
7. There are residential properties within the area, but those most affected would likely be the flats that are located above commercial properties immediately to the east at No.14 and No.16 Austhorpe Road.
8. Whilst I accept that the venue would be likely to host many low key, daytime focussed events, there appears to be clear intention to host evening functions where a band would play or amplified music would be provided and alcohol would be sold. Opening hours would be until 23:30.
9. Subsequently, such functions at the venue, while limited in number, would have the potential to give rise to significant noise, as a result of these types of event with the potential for large numbers of attendees.
10. Noise can have significant effects on the environment and on quality of life. Exposure can have effects on sleep, cause general annoyance and can lead to chronic health effects.
11. A noise risk assessment has been submitted in support of the proposal. However, its findings rely largely on assumptions. There are concerns over the transference of low frequency sound to the neighbouring first floor flat, however the risk assessment has only made assumptions about the boundary wall arrangements between the appeal site and the flat, which provides limited certainty as to the actual effects of low frequency sound on occupants of the flat.
12. There is nothing within the evidence which clearly outlines why it has not been possible to test the assumptions of the noise risk assessment in a real-world scenario which would be more useful for coming to firm conclusions on the potential impact.
13. Further, the noise risk assessment is based on the assumption that windows to the premises would remain closed. This is an unreasonable assumption to make and it might not be desirable to have to prevent windows from being open on a warm summer evening with large numbers in attendance.

14. I therefore conclude that the noise risk assessment fails to provide a sufficient level of information to satisfy me of the potential impacts of the proposal. The evidence fails to demonstrate that the proposal would not cause harm to the living conditions of neighbouring occupiers with regard to noise and disturbance.
15. The proposal is therefore contrary to Policy P10 of the Core Strategy – Selective Review (2019) (CS) and Policy GP5 of the Leeds Unitary Development Plan (2006) (UDP) which amongst other things require new development to contribute positively to quality of life and wellbeing and avoid problems of environmental intrusion and loss of amenity.

Accessibility

16. Due to its position on the first floor, the multi functional room would be difficult to access for some if they were to find using what are a reasonably narrow flight of stairs problematic. Although not detailed on the plans, domestic style stairlifts had been installed to the rear service staircase.
17. However, use of these stairlifts would involve the user being segregated from the primary front entrance and having to traverse to the rear of the premises via Back Austhorpe Road where there are limited footways. Access would then have to be taken via a narrow ledge past what appears to be a bin storage area to the rear service door which does not appear to have level access.
18. It wouldn't be a pleasant, or easy way to arrive at the premises and in many respects would be rather undignified for a visitor. It would not provide easy access for those who could not use the stairs and due to its characteristics, it would not be inclusive.
19. There is suggestion within the evidence that this arrangement could be improved through the provision of a platform lift. I acknowledge that this would have cost implications. However, despite a more accessible option potentially being available it does not form a solid part of these proposals.
20. Whilst it is suggested that there are other nearby venues in first floor locations that are difficult to access for some, limited detail is provided and I cannot be certain of the requirements at the time those venues came into being. This is also the case for the previous use of the premises as a gym.
21. However, current SPD¹ guidance on the matter is clear. With regard to changes of use applicants should wherever possible incorporate improvements in terms of inclusive design and access for disabled people. This is of particular importance where members of the public would access the building, such as this building.
22. The lack level access therefore results in a proposal that would have poor levels of accessibility and which would be contrary to SPD guidance. The proposal would also be in conflict with Policy P10 of the CS and Policy GP5 of the UDP which amongst other things require development that is accessible to all users.

¹ Supplementary Planning Document to Leeds Local Development Framework: Core Strategy Accessible Leeds: achieving an inclusive environment March 2016.

Other Matters

23. I accept that music will have been played at the premises when in use as a gym. However, the music will likely have been ancillary to the use as opposed to the focus of activity on an event night and may well therefore not have been as loud as it would likely be under this proposal. The evidence also indicates the gym closed an hour earlier in the evening when compared to the opening hours before me. I therefore afford these matters limited weight.
24. Although it is suggested that the noise impact of the use would be the same or lower than similar nearby venues, limited evidence has been provided in this regard and I therefore afford this matter limited weight.

Conclusion

25. I accept that there would be social and economic benefits associated with the multi functional room in that the venue would provide a pleasant and modern community meeting place and would draw spending into the area. However, I consider that these benefits are outweighed by the adverse impacts of the proposal.
26. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR