



Appeal Decision

Site Visit made on 10 November 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/C1760/W/21/3278956

48 The Hundred, ROMSEY, SO51 8BX

- 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 Fazlur Rashid Rumon against the decision of Test Valley Borough Council.
 - The application Ref 21/00706/FULLS, dated 11 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is stationing of a kitchen van [Class E(b)] and retention of block-paved hardstanding area for a temporary period of 12 months.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021, after the Council made its decision, the Government published its revised National Planning Policy Framework (the Framework). Both parties have had an opportunity to comment on the revisions where they may be relevant to the case, and any comments received have been taken into account in determining the appeal.
3. The kitchen van and hardstanding were in position at the time of my visit to the site. I am therefore considering this appeal retrospectively.

Main Issues

4. The main issues are the effect of the proposal upon:
 - a) the character and appearance of the area, with regard to the Romsey Conservation Area and the setting of the grade II listed building known as Tudor House, 52, The Hundred, and
 - b) the living conditions of the occupiers of nearby dwellings, with regard to noise and odour.

Reasons

Character and appearance

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it

possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

6. The appeal building stands within the Romsey Conservation Area (RCA). The RCA covers a large area that focuses on the historic core of the town, which includes its medieval core and narrow streets that lead onto the Market Place and Abbey. This network of primary and secondary urban routes, as well as the arrangement of plots and the range of high quality historic buildings are significant contributors to the character and appearance of the RCA.
7. Tudor House stands prominently alongside Love Lane, and faces over the rear of the appeal site, which is where the kitchen van is located. It dates from the 16th and 18th centuries. The formal 18th century front includes decorative polychromatic brickwork and a fine entrance door set back behind panelled reveals and encased with a pediment and pilasters. The building's north façade retains an exposed timber frame with brick infill. The fine appearance of the building's west front and its setting at the edge of the town's historic core are significant contributors to its special interest.
8. Although it is positioned close to the back of the existing building and side boundary wall, the van is prominent from Love Lane and the environs of the listed building. It stands well above the boundary wall to the side to the extent that it is dominant when passing by. It does not relate well to the ancillary single storey structures and extensions along the rear of the existing building and nearby buildings, which are generally masonry and lower in scale, and appears out of place in the context of this part of the RCA.
9. The appellant suggests that it could be modified by painting it white. This would help to manage the overall visual impact a little. However, it would not disguise the fact that the van is a takeaway unit rather than an ancillary rearward extension to the building. It would still be well above the eaves height of the single storey rear extension alongside the lane and could thus not be considered an appropriately scaled subservient addition to the host building.
10. The van is very close to the west front of the listed building. The end of the unit aligns roughly with its two storey bay window and is close to its entrance door. The scale and form of the van in such a prominent position relative to the building's formal principal elevation cause considerable harm to its significance.
11. I note that the yard can be used for the parking of vehicles and that the plans suggest this area is for customer parking. However, these are likely to be of a much lower scale than the van, and the use of the area for such purposes would be transitory.
12. In terms of the Framework the harm identified would be less than substantial. Paragraph 202 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
13. The appellant advises that the van has created three additional jobs and reference is made to paragraph 81 of the Framework which says, amongst other things, that significant weight should be placed on the need to support economic growth and productivity. Evidence before me suggests that the proposal has allowed the business to adapt during a challenging time. However, there is nothing before me to suggest that the three employees could

not be redeployed elsewhere on the premises if the van was removed, or why it was not possible to temporarily adapt the existing building to respond to the additional demand, especially as it would have been necessary to close the restaurant for significant periods of time during the pandemic. These factors limit the weight that I give to these economic public benefits.

14. It is also suggested that the proposal makes efficient use of underutilised land in a good location, which could be a public benefit on the basis that it does not result in the loss of undeveloped land or increase travel demand. Whilst I accept that the location of the van in relation to the existing business and the centre of the town is suitable for the proposal, it is difficult to conclude that it makes efficient use of the rear of the plot without knowing how this space was used previously. I therefore give this matter limited weight.
15. I give the harm I have identified considerable importance and weight. Indeed, paragraph 199 of the Framework establishes that great weight should be given to the conservation of a heritage asset. The public benefits of the proposal would be modest and would not be sufficient to outweigh the degree of harm identified.
16. In summary, I find that the proposal harms the character and appearance of the area. It fails to meet the requirements of the LBCA as it fails to preserve the architectural interest of the listed building and does not preserve the character or appearance of the RCA. It does not accord with Policies E1, E9 and COM2 of the Test Valley Borough Revised Local Plan DPD Adopted Local Plan 2011-2029 (LP), which together seek to ensure that development proposals integrate, respect and complement the character of the area; and contribute positively to sustaining or enhancing the significance of a heritage asset.

Living conditions

17. I have reviewed the submitted noise impact assessment¹. The report suggests that whilst on site the operational kitchen van was not audible, yet no mention is made of what must be the regular opening and closing of doors between the van and the back of the main building for orders to be collected. It must also be necessary for staff to leave the unit for breaks or to access supplies from the cold room or other storage areas. Such activity would create regular additional noise, which could include the abrupt sounds of doors shutting. This would be in very close proximity to the bay window of the listed building, which is very close to and looks out over the end of the van where the doors are. These are important case specific factors that I would expect to see incorporated into a thorough and accurate assessment of noise impacts.
18. The submissions explain that the van is only used for cooking and that orders are taken and collected from the front of the building. At my visit I saw a small sign at the rear of the site to support this, however I could see nothing similar at the front. Furthermore, this sign was displayed underneath a large sign advertising the business name that included a Love Lane address. The front elevation of the building at street level presents itself as a dine in restaurant with a different name. At my visit I saw that the van displays a prominent sign that faces the lane at the rear and features a large opening through which customers could be served that also faces in this direction. I also note that the submitted plan refers to the rear area as customer parking.

¹ Noise Impact Assessment DAA Group 12th July 2021 Issue 01

19. It therefore appears to me that the van has been sited so that it can be directly accessed by customers at the rear, and as a result I consider it likely that customers will arrive at the rear of the premises to attempt to place or collect an order. Such visits could have a further adverse impact on those living close by.
20. In terms of odours, whilst the van may have integral systems to extract odour to the outside, the Council suggests that the details submitted do not show that the van has any odour abatement, and that upon a visit to the site the door was open, and odours were noticeable from some distance away.
21. I give significant weight to the very close relationship between the end of the kitchen van and the bay window of the nearest neighbour to the east. I have found that the submitted noise impact assessment is lacking and that the van is without any odour abatement. The proposal therefore has a harmful impact on the living conditions of the occupiers of nearby dwellings. It is contrary to E8, LHW4 and COM2 of the LP, which together seek to ensure that development provides for the amenity of neighbouring properties, and that pollution generating proposals should only be permitted if there would not be any adverse impact on human health, including noise and odour pollutions.

Other Matters

22. The appellant explains that the unit is required to deal with an increase in demand for takeaways during the covid pandemic, and that this demand should subside in time, hence the suggestion that planning permission is granted for a temporary period of 12 months. It is therefore suggested that any harm would be temporary, and that the proposal is entirely reversible.
23. I accept that this matter weighs in favour of the proposal and agree that the proposal would be entirely reversible. Indeed, the harm to the character and appearance of the area would be reduced if the proposal was only allowed on a temporary basis. However, I am not satisfied that it would be reasonable to allow the van to remain in-situ for a further 12 months, mindful of the fact that it has already been in use since December 2020, considering the harm I have found in relation to the living conditions of the occupiers of nearby dwellings.

Conclusion

24. For the reasons above, the appeal should be dismissed.

A Tucker

INSPECTOR