



Appeal Decision

Site visit made on 8 March 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Appeal Ref: APP/B4215/C/19/3241275

Land at 3 Grandale Street, Manchester M14 5WS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Saif Chaudry against an enforcement notice issued by Manchester City Council.
- The enforcement notice was issued on 23 October 2019.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of a dwellinghouse (Class C3) to form 4 commercial units operating as a travel agent (Class A1), 2 x couriers' offices (Class B1) and therapy/medical treatment room (Class D1).
- The requirements of the notice are:
 1. Cease the use of the property as 4 commercial units operating as a travel agent (Class A1), 2 x couriers' offices (Class B1) and therapy/medical treatment room (Class D1).
 2. Remove from the building all items and paraphernalia associated with the commercial uses.
 3. Dismantle and remove from the land all physical manifestations of the uses in the form of signage and advertisements.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

This decision supersedes that issued on 4 June 2020. That decision on appeal was quashed by order of the High Court.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the material change of use of a dwellinghouse to form 4 commercial units operating as a travel agent, 2 x couriers' offices and therapy/medical treatment room, on land at 3 Grandale Street, Manchester M14 5WS referred to in the notice, subject to the following conditions:
 - 1) The premises shall be used for four Class E units comprising of one "Travel and Ticket Agencies", two "Offices – for operational or administrative functions" and one "Therapy/Medical Treatment Room" (excluding beauticians, nail bars, massage parlors) and for no other purposes, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

- 2) The four commercial units hereby permitted shall only be open for visiting customers between the hours of 0900 to 1800 hours, Monday to Saturday and not at all on Sundays or Bank Holidays.
- 3) No servicing, deliveries, loading or unloading, including waste collections, shall be carried out outside the hours of 0730 to 1800, Monday to Saturday, and at no time on Sundays or Bank Holidays.

Preliminary Matters

2. On 1 September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987 (UCO). As a result, from 1 September 2020, a new broad 'commercial, business, service' use (Class E) was created, which incorporates the previous A1, B1 and D1 use classes.
3. In the interests of consistency, I have in my assessment, referred to the definitions as they appeared in the UCO prior to the amendment. However, for the purposes of my decision in Appeal A, I have amended the description to delete references to the former use classes and in condition number one I have referred to the definitions as they now appear in the UCO, as suggested by the Council.
4. The units on the first floor were vacant at the time of my visit however, my decision is based upon the development alleged in the notice as issued.

The appeal on ground (a) and the deemed planning application

5. The main issues are the effect of the development on (i) the availability of family housing and (ii) the living conditions of neighbouring residents with particular regard to noise and disturbance.

The availability of family housing

6. The appeal property is a two storey mid-terrace house, with two main rooms and a kitchen at ground floor level and two further rooms and a bathroom at first floor level. To the rear is a yard off an alleyway where bins are stored.
7. There are five properties in the terrace, all in use for A1 purposes at ground floor level, with offices above 9 Grandale Street and according to the Council, residential uses above 1 and 5 Grandale Street, adjoining the appeal site. The terrace is located close to the bustling commercial environment along Wilmslow Road however, further west beyond the junction with Ravensdale Street, Grandale Street has a predominantly residential character.
8. Policy H 5 of the Core Strategy states that Central Manchester will accommodate around 14% of new residential development and that priority will be given to family housing. The supporting text at paragraph 9.25 states that the emphasis will be on increasing the availability of family housing and diversifying housing stock in mono-tenure areas, *preserving and improving the quality of the existing housing stock* [my emphasis].
9. Except for the planning permission for no.5, those for nos. 1, 7, 9 and 11 were granted before the adoption of the Core Strategy¹ and I cannot be certain that the same policy context existed. It is not clear why the Council considered the

¹ Manchester's Local Development Framework Core Strategy Development Plan Document Adopted 11th July 2012

loss of a family dwelling at no.5 to be acceptable however, the consequence of the permissions, is that the character of this terrace is no longer residential but commercial in nature, compounded by its proximity to Wilmslow Road.

10. Whilst it is evident that the Council seek to provide and retain family housing, it is also evident that they seek to ensure that development, including housing, is high quality and diverse, makes a positive contribution to the health, safety and wellbeing of residents and has regard to the character of the surrounding area.
11. Given the sites location between and surrounded by commercial uses, close to the busy Wilmslow Road, a family dwelling would not only be incompatible with the character of the immediate locality but would not provide living conditions that would be favourable to family life. Consequently, whilst there is conflict with the supporting text to Policy H 5, given the circumstances in this case, the development is in accordance with the development plan when taken as a whole.

Living conditions

12. I acknowledge that the overall use is more intensive than neighbouring uses since there are four separate uses. However, given the modest size and nature of the uses, it seems unlikely that they would employ many people on the premises or accommodate large numbers of customers at any time, nor would they generate significant levels of passing trade.
13. Similarly, vehicle movements associated with the uses are unlikely to generate materially harmful levels of traffic or noise and disturbance associated with such movements, given those that are likely to be associated with existing surrounding businesses.
14. A change from one use to another which falls within the same use class is not *development* that requires planning permission. As such, given the number of units, there is an unacceptable risk that other uses, within the same use class (now Class E) could be harmful to the living conditions of neighbouring residents. Consequently, a condition to prohibit future changes of use within the same use class is reasonable and necessary.
15. I am aware that the planning permission for the shop at no.1 is subject to the condition that activities at, and deliveries to the shop, are limited to 0900 to 2000 hours on Mondays to Saturdays, and not at all on Sundays and Bank Holidays.
16. The appeal development includes uses at first floor level adjoining residential premises, the occupants of which are entitled to a reasonable amount of peace and enjoyment, particularly later into the evenings. Notwithstanding the previous Inspector's decision, since the appellant stated that other than an odd occasion, the businesses close by 1800, it is reasonable to restrict the hours of operation to reflect this.
17. For the reasons given, subject to conditions, the development would cause no harm to the living conditions of neighbouring residents by way of noise and disturbance. As such there is no conflict with Policies SP1 and DM1 of the Core Strategy and the National Planning Policy Framework, insofar as they aim to protect amenity.

18. The Council referred to Policy C 10 of the Core Strategy which relates to leisure and the evening economy, which is not relevant to the development in this appeal.

Conditions

19. The Council suggested five conditions. The first relating to storage and management of waste is not necessary since there is adequate room within the yard area and an alleyway to the rear for the storage of bins.
20. The Council have suggested two conditions limiting the uses however, a single condition is adequate.
21. Conditions restricting the hours of operation including deliveries and loading are necessary in the interests of safeguarding the living conditions of neighbouring residents. I have amended the condition relating to deliveries and loading to reflect the permitted opening hours. Given the permitted operating hours, this would have no material effect on living conditions.

Conclusion

22. For the reasons given above, I conclude that the appeal succeeds on ground (a) and planning permission will be granted. I shall grant planning permission for the development.

Felicity Thompson

INSPECTOR