



Appeal Decision

Site visit made on 26 April 2022

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/W4705/W/21/3285841

Clarges Street Car Park, Clarges Street, Bradford BD5 0QA

- 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 Abid Hussain against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/04186/FUL, dated 10 August 2021, was refused by notice dated 5 October 2021.
 - The development proposed is described as “proposed cafe with external seating area (retrospective)”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the café and seating area were in place. I have dealt with the appeal accordingly.
3. The address of the appeal site as stated in the banner heading is taken from the appellants appeal form.

Main Issues

4. The main issues are the effect of the proposal on the living conditions of occupiers of neighbouring properties with regards to noise and disturbance, and the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Living conditions

5. There are commercial units in the area however, the café and seating area are located directly adjacent to residential properties. Due to its closeness, the noise from customers using the café and seating area would be audible from neighbouring dwellings. The congregation of customers with talking, raised voices and laughing, as well as noise related to vehicle movements coming to and from the site would create unacceptable noise levels and disturbance to the detriment of nearby residential occupiers.
6. Given the evening opening hours, the noise from the café would be exacerbated as it is a sensitive part of the day when noise levels in a residential area are expected to be low. It is explained that the site is located near a busy commuter road, nonetheless, background noise on an evening in

this location would be lower than during the day. The noise emitted from the café and seating area would have a detrimental effect on the living conditions of the occupiers of properties surrounding the site.

7. My attention has been brought to the retail and hot food takeaway units to the south of the site. Insufficient information has been provided on these units, in terms of noise levels from these buildings and customer and traffic generation. These units do not have parking areas or outdoor seating areas of similar scale to the appeal site and therefore I do not consider them to be directly comparable to the appeal scheme.
8. I have had regard to the appellants statement of case including comments that there have been no complaints from the current operations and that the opening hours could be amended. The lack of complaints does not mean that the proposal is not adversely affecting living conditions of existing nearby occupiers or that it would not compromise living conditions of future occupiers. There is a lack of evidence relating to expected and acceptable noise levels resulting from the café. The absence of convincing evidence relating to noise levels, whether this be in relation to opening hours of up to 00:00 hours or 23:00 hours, gives me considerable doubt in my mind that the operations associated with the café can be undertaken without harming the living conditions of neighbouring occupiers.
9. On the evidence before me, I am not convinced that the café and seating area can operate without causing harm to the living conditions of the occupiers of neighbouring properties with regards to noise and disturbance. The proposal would contradict Policies DS5 and EN8 of the Bradford Core Strategy Development Plan Document (BCSDPD) and the National Planning Policy Framework (the Framework) which seeks proposal to make a positive contribution to people's lives and identify potential nuisance issues arising from the nature of the proposal and address impacts on that development from existing land uses.

Character and appearance

10. The area surrounding the appeal site is characterised by a mix of different uses and built form. There is a wide range of design elements in the area with varying scale of development and use of various materials. It is this variation in the built form that contributes to the character of the area.
11. The café building is flat roofed shipping containers that have been cladded in timber with canopies. The design is utilitarian however with the timber cladding addition, it does not appear as an intrusive structure that is out of keeping, particularly given the wide range of built development in the area. The outside seating area is not an unusual feature associated with a café and does not look at odds in this locality.
12. Accordingly, the café and seating area are not incongruous structures and the proposal does not harm the character and appearance of the surrounding area.

Conclusion

13. The proposal would not have a detrimental effect on the character and appearance of the surrounding area. However, this matter would not outweigh the harm I have identified with regards to the effects on living conditions of occupiers of residential properties.

14. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
15. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR