



Appeal Decision

Site visit made on 27 November 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/B4215/W/22/3304111

Huntsman Inn, 130 Wilmslow Road, Manchester M14 5AH

- 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 Saheeb Hussain against the decision of Manchester City Council.
 - The application Ref 133383/FO/2022, dated 19 April 2022, was refused by notice dated 30 June 2022.
 - The development proposed is the change of use of the ground floor to restaurant/shisha lounge (sui generis) amendments to ground floor fenestration and extension to boundary wall to the rear.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: living conditions of surrounding residents, with particular regard to noise, disturbance and odour; and the character and appearance of the surrounding area.

Reasons

Living Conditions

3. The site is a former public house on Wilmslow Road, currently in use as a restaurant. An L shaped back yard wraps around a two storey rear extension, separated from the adjacent public car park by a brick boundary wall. Residential dwellings are located to the west and north-west of the car park at Whitecliff Close and Claremont Road, respectively.
4. The proposed use would involve smoking of shisha on the ground floor. The appellant states smoking would not occur in the rear yard, which I am satisfied could be addressed by a suitably worded condition. For ventilation, open facades are proposed on the north and west elevations of the ground floor. As such, it is likely smoking would occur to the rear of the building, close to these open facades. This would result in customers congregating in this area, leading to noise associated with voices and general comings and goings. The appellant has also advised that music would be played in the premises.
5. While Wilmslow Road has many commercial uses, by occurring at the rear of the building, the activity associated with the smoking of shisha would instead be in proximity to the residential uses on Whitecliff Close and Claremont Road. I observed this area to have a different character to that of Wilmslow Road,

with a comparatively lower level of activity at the time of my visit due to its more residential nature.

6. As a result of the opening hours of the site, noise associated with the proposal would occur late into the evening when nearby residents can reasonably expect a level of peace and quiet. It would also be particularly prevalent during summer months when, due to warmer weather, these residents are more likely to have their windows open. Given the open facades at the site, the noise of the proposal would have the potential to result in a level of disturbance to occupiers of these dwellings.
7. I have had regard to the Noise Impact Assessment (the NIA) submitted by the appellant. This assessed a number of scenarios and found that closed first floor rear windows at the appeal property and a rear boundary wall of an increased height of 5.5 metres would together ensure no significant impact on surrounding residential receptors as a result of noise associated with voices of employees and customers, television sets and first floor background music. It also concluded a minimal noise impact arising from car park use and determined a limiting cumulative plant noise level that any plant equipment would have to adhere to in order to avoid undue noise impacts.
8. An Odour Impact Assessment (OIA) has also been submitted, given the likelihood for the smoking of shisha towards the rear of the building close to the open façades. This has concluded that, subject to the installation of odour control equipment, the proposal would not have adverse impacts on surrounding residents due to odours arising from the smoking of shisha. While the OIA has not considered impacts from smoking in the rear yard, the appellant does not intend for this part of the site to be used for this purpose, which I have concluded could be adequately controlled by way of a condition.
9. While I acknowledge the comments of interested parties, based on my observations I have no substantive reason to disagree with the findings of either the NIA or OIA. I am satisfied that suitably worded conditions could ensure that the proposal is carried out in accordance with these assessments and the recommended mitigation, including a condition that specification details of the odour control equipment would be submitted to and approved by the Council prior to the change of use of the property. I note that the Council has concluded the same.
10. For the reasons given I find that, subject to the conditions referred to above, the development would not have a significant adverse effect on the living conditions of surrounding residents with regard to noise and disturbance and odour. In this regard, it would comply with Policies DM1 and SP1 of the Manchester Core Strategy 2012 to 2027 and saved Policy DC26 of the Manchester City Council Unitary Development Plan, which together seek to ensure that development does not create an unacceptable impact in terms of noise and odour.

Character and appearance

11. As a result of the mitigation required by the NIA, the proposal would necessitate an increase in height to the rear boundary wall between the site and car park. However, this would result in a visually prominent feature within the immediate vicinity, with clear views of the wall experienced by passing

vehicle users and pedestrians on Claremont Road, in addition to residents of surrounding properties and users of the car park.

12. From these points the wall would be experienced as a tall, featureless expanse of brick. It would sit perpendicular with, and be of a similar height to, the wall along the northern boundary with No. 128 Wilmslow Road and the neighbouring flank elevation of the supermarket. Combined with these structures it would appear visually overbearing, creating a sense of enclosure at this location.
13. The wall would continue to form part of a larger boundary with the car park. However, it would tower above the adjoining sections of wall, appearing out of place and jarring in context. This would reduce the consistency of the boundary feature, serving to further highlight the dominance of the proposed heightened wall. Furthermore, by partially obscuring the glazing along the rear elevation of the appeal property, it would appear as an awkward addition, visually competing with the built form behind. Overall, it would not be of an appropriate scale or read as appropriately sited in this location.
14. I note the appellant's comments that previous appeals¹ at this address did not raise any issue with regards to the character and appearance of walls at the site, and have had regard to these decisions. However, on the basis of the information before me, these applications did not include a rear boundary wall of 5.5 metres in height, which I find to be harmful in this instance.
15. For the reasons given above, I find that the proposal would result in significant harm to the character and appearance of the surrounding area. In this regard, it would fail to comply with Policies DM1 and SP1 of the Manchester Core Strategy 2012 to 2027, which seek to ensure that development is well-designed, has regard to the character of the area and is of appropriate scale.

Other Matters

16. The Council has raised concerns as to whether the proposal would comply with legislation prohibiting smoking in enclosed public spaces. However, for the avoidance of doubt, this is subject to a separate legal regime that falls outside of the planning remit of this appeal.
17. The appellant has referred to various appeal decisions granting planning permission for shisha lounges within the area. However, each application is decided on its own site specific merits and reference to development nearby carries little weight.

Planning Balance and Conclusion

18. I have concluded that, subject to the conditions referred to above, the proposal would not result in significant harm to the living conditions of surrounding occupiers with regard to odour, noise and disturbance. However, this would require, among other things, a rear boundary wall of an increased height of 5.5 metres. I have found that in this location a wall of this height would result in a significant level of harm to the character and appearance of the area, which outweighs the lack of harm identified with regards to living conditions.
19. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the

¹ APP/B4215/W/18/3226481; APP/B4215/C/21/3284746

appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR