



Appeal Decision

Site visit made on 17 January 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/G4620/W/22/3306738

Unit 21 Pleasant Street, West Bromwich, West Midlands B70 7DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sikandar Shahbaz against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67188, dated 20 June 2022, was refused by notice dated 9 September 2022.
 - The application sought planning permission for the change of use of an industrial unit to a snooker hall without complying with a condition attached to planning permission Ref DC/18/62395, dated 13 August 2019.
 - The condition in dispute is No 6 which states that: The use hereby approved shall be open only between 09.00 - 21.00 hours Mondays to Saturdays, 10.00 - 16.00 hours on Sundays and there shall be no opening on Bank Holidays.
 - The reason given for the condition is in the interests of residential living conditions, with some residences being located nearby which could be affected by noise.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of an industrial unit to a snooker hall at Unit 21 Pleasant Street, West Bromwich, West Midlands B70 7DP in accordance with the application Ref DC/22/67188, dated 20 June 2022, without compliance with condition number 6 previously imposed on planning permission Ref DC/18/62395 dated 13 August 2019, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. It was noted that the appellant details on the appeal form were different from the applicant details on the application form. Clarification was therefore sought on the matter. The correct applicant, and appellant on the appeal form is Mr Sikandar Shahbaz, whereas the applicant on the application form is Mr Mohammed Tanveer. Mr Tanveer had been instructed to submit the application and the appeal on behalf of Mr Shahbaz. Therefore, the name in the banner heading above is that of the applicant, Mr Sikandar Shahbaz.
3. The address in the banner heading above has been taken from the Council's decision notice and the appellant's appeal form as the address was incorrect on the application form. It is clear from the evidence submitted that the address in the banner heading above is the correct one.
4. The Council have provided me with copies of Policies from the Site Allocations and Delivery Development Plan Document (December 2012) and the Black

Country Core Strategy (February 2011). However, these are not cited in the reasons for refusal, nor are they referenced in either the delegated officer report or the Council's Statement of Case officers. They do not appear to be relevant to the proposal before me and I have therefore determined the appeal on this basis.

Background and Main Issue

5. Planning permission was originally granted for the change of use of an industrial unit to a snooker hall on 13 August 2019¹. A variation of condition application was allowed on appeal in December 2020² which varied the opening hours condition to allow the snooker hall to operate between 1200-0300 Mondays to Saturdays but restricting the opening of the premises to 1000-1600 on Sundays and not at all on Bank Holidays. The appellant now wishes to vary the condition so that the snooker hall can operate 1200-0300 Mondays to Sundays, including Bank Holidays.
6. The main issue, therefore, is whether the later opening hours on Sundays and the opening of the premises on Bank Holidays would result in an increase in anti-social behaviour in the area and the effect of the varied opening hours on the living conditions of neighbouring occupiers, in regard to noise and disturbance.

Reasons

7. The appeal site is situated on the edge of the industrial estate, with the rear gardens of the residential properties along Newhall Street situated opposite. Its immediate neighbours consist of a car repair business, with further commercial premises on the industrial estate including more car repair businesses, a steel fabrication company and various other manufacturing facilities.
8. The industrial estate is open to the surrounding residential area. The existing occupiers of the neighbouring residential properties are therefore already situated in a mixed use area. Local residents have raised concerns in relation to vandalism, littering and the area attracting groups. Whilst I acknowledge these concerns, the Council have not provided any evidence that there are high levels of crime in the area. Furthermore, they have not demonstrated that any crime, noise and disturbance in the area is directly related to the snooker hall premises nor have they suggested that these issues in the area have increased since the later hours Mondays to Saturdays were allowed in the earlier appeal decision in December 2020.
9. There are streetlights in the immediate vicinity of the appeal site, including one directly outside the entrance to the premises. I also note that the premises has 24hrs CCTV surveillance, both internal and external. These measures would help to go towards deterring potential crime or anti-social behaviour.
10. I note a fitness centre operates nearby, which is open 24hrs a day. The Council states that the fitness centre does not serve alcohol 'that leads to antisocial behaviour issues at unsociable hours'. However, I note that the appeal premises do not hold a licence to sell alcohol. Furthermore, it is a member's only snooker club and the appellant states that any use of drugs and alcohol

¹ Application Ref DC/18/62395, allowed on appeal ref APP/G4620/W/19/3227763

² APP/G4620/W/20/3256821

results in the cancellation of membership. These measures weigh in favour of the proposal.

11. Whilst the police records do not categorially state that the area does not suffer from anti-social behaviour, as alleged by the appellant, it does confirm that there are not that many police reports along Pleasant Street and that the area is regularly patrolled in the evenings by neighbourhood officers. I also note the lack of complaints that have been submitted to the premises directly.
12. Whilst it is acknowledged that the comings and goings associated with the other commercial premises on the industrial estate would differ to the snooker hall, I do not consider that the movement of people associated with the snooker hall would be 'constant'. Patrons visiting the premises would arrive or leave at different times throughout the day which would limit any significant noise or disturbance caused by the later hours. The entrance to the snooker hall would be situated on the northern elevation of the premises, furthest away from the residential properties. Therefore, the comings and goings associated with the snooker hall would be situated away from the residential dwellings.
13. The Council mentions that previous Inspectors have restricted the operating hours on the premises through earlier appeal decisions³. However, based on the evidence before me, the Inspectors in these earlier decisions have simply allowed the appeal on the basis of the operating hours which have been requested by the appellant at the time.
14. Therefore, based on the evidence before me, the variation of the condition to allow later opening hours on Sundays and the opening of the premises on a Bank Holidays would not result in an increase in anti-social behaviour in the area and would not harm the living conditions of neighbouring occupiers, in regard to noise and disturbance. It would be in accordance with Paragraph 130 of the National Planning Policy Framework 2021 which states that planning decisions should ensure that developments create places where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Conditions

15. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have repeated the non-disputed conditions from the original permission that appear still to be relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

16. For the reasons outlined above, having regard to the development plan as a whole and to all other material considerations, the appeal is allowed. I shall therefore grant a new planning permission with condition 6 varied and subject to the conditions below.

³ APP/G4620/W/19/3227763 and APP/G4620/W/20/3256821

Laura Cuthbert

INSPECTOR

Schedule of Conditions

1. The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may be otherwise required by (any of) the following condition(s), or approved amendment(s).
2. The development must be begun not later than the expiration of 3 years from the date of this permission.
3. a) Before the development is commenced details of any walls or fences to be erected on the boundaries of the site shall be submitted to and approved by the local planning authority.

b) The approved boundary walls or fences shall be constructed in accordance with the approved details and thereafter retained as such.
4. a) Before the use is commenced space shall be provided (including marking out) within the curtilage of the site for the parking and manoeuvring of vehicles in accordance with the approved details.

b) When provided the approved space for the parking, loading, unloading and manoeuvring of vehicles shall be retained as such.
5. The development shall not be brought into use unless and until a new vehicle crossing has been provided to serve the development hereby approved by this permission in accordance with details submitted in writing to and approved by the local planning authority.
6. The use hereby permitted shall take place only between 1200 – 0300 on Mondays to Sundays, including Bank Holidays.
7. There shall be no amplification of sound to a degree that it is audible outside the application premises.
8. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (Or any Order revoking and re-enacting those Orders with or without modification), the approved use shall be used solely for the use applied for and for no other purposes.