



Appeal Decision

Site visit made on 1 August 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Appeal Ref: APP/N4720/W/23/3319617

60 Springfield Road, Morley, Leeds LS27 9PN

- 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 Deniz Osmanov against the decision of Leeds City Council.
- The application Ref 22/07786/FU, dated 18 November 2022, was refused by notice dated 10 January 2023.
- The application sought planning permission for erection of dental laboratory for applicants own use not a clinical setting; new doors to rear of dwelling without complying with conditions attached to planning permission Ref 20/02692/FU, dated 27 July 2020.
- The conditions in dispute are No. 3 and 4 which state: 3) The development hereby permitted shall not operate outside the following times: 09:00 hours to 17:00 hours Mondays to Fridays. 4) The hereby approved use shall only be operated by the resident of 60 Springfield Road, Deniz Osmanov.
- The reasons given for the conditions are: 3) In the interests of the protection of the amenity of nearby occupiers. 4) In the interests of the protection of residential amenity.

Decision

1. The appeal is dismissed.

Background

2. Planning permission was granted for the erection of dental laboratory for applicants own use not a clinical setting; new doors to rear of dwelling. Two conditions controlling the operation hours and use were imposed in the interests of the protection of residential amenity. Condition 3 therefore states, that the development hereby permitted shall not operate outside the following times: 09:00 hours to 17:00 hours Mondays to Fridays. Condition 4 also states that the hereby approved use shall only be operated by the resident of 60 Springfield Road, Deniz Osmanov. The proposed development seeks to remove both conditions and the main issues relate to the Council's decision and associated reasons for refusal.

Main Issues

3. The main issues are:
 - The effect that removing conditions 3 and 4 would have on the living conditions of neighbouring residents in relation to noise and disturbance; and
 - The effect that removing condition 4 would have on highway safety.

Reasons

Living conditions

4. The appeal site relates to an outbuilding located to the rear of No 60 Springfield Road which is a two-storey flatted property. A small garden area is located to the rear along with a parking area. The surrounding area is characterised by residential properties.
5. The outbuilding is located to the far end of the garden area and fronts onto the flatted properties which are understood to be owned by the appellant. Given the limited size of the garden area, the outbuilding is located in close proximity to the rear elevation of the host property where there are a number of ground and first floor windows. The outbuilding backs onto the gable elevation of the properties located along Springfield Mews where there is also a window located at first floor level. Other residential properties are also located in close proximity of the site.
6. The building is used to produce crowns and bridges on dental models as well as providing a private leisure/DIY space for the appellant although this latter element is not specified on the original decision notice. Activities associated with the use of the building include amongst others, office and computer-based tasks and design, printing and production processes. At my site visit, I was able to see some of the operations that exist onsite including the equipment and tools required which are very much of a high-tech level. While the operations taking place were not particularly noisy, this is only a snapshot in time and not determinative. The proposal is not supported by evidence such as a noise assessment and representations from interested parties have expressed concerns regarding noise and disturbance associated with the existing use of the building. Other sources of noise associated with the use would be the comings and goings of people using the outbuilding including both on foot and by vehicle including any associated deliveries, people conversing both inside and outside of the building and any music being played which was evident at my site visit albeit at a low level.
7. The originally submitted Design and Access Statement explains that the dental laboratory is not a clinical setting and would be solely for the applicants use alone. There would be no customers coming or going from the laboratory and there would be no staff employed at all. On this basis, consent was subsequently granted subject to conditions controlling the operation hours and use given the close proximity to neighbouring properties.
8. The removal of these conditions would allow the use to operate 24 hours, 7 days a week with unlimited employees/customers. I appreciate claims that the request to remove working hours restrict pertains solely to the appellant and would not involve employees on-site outside of the standard business hours. I also appreciate that it is unlikely that the use would operate over a 24-hour period and that the number of people able to be on site at any one time would not be significant given the limited size of the building. However, the removal of conditions 3 and 4 would mean that there would be no controls in place in respect of this matter and could still result in a high level of employees/customer movements over a prolonged period and at unsociable times should the appellant wish to utilise the building in this way.

9. Such activity has the potential to cause an unacceptable level of noise and disturbance for nearby residents particularly taking into account the relationship that exists to nearby properties and their windows. To this end, the level of activity and associated noise and disturbance capable of occurring without the conditions would be particularly harmful if it were to occur later into the evenings, overnight or in early mornings when occupiers of neighbouring properties would reasonably expect a quieter living environment, and many would be seeking to sleep.
10. The Design and Access Statement also states that the building would incorporate additional measures such as tightly packed acoustic insulation and fully dry lined with 15mm Gyproc soundboard and 6mm of skim to limit the noise coming from within. It is unclear if such measures have been installed or what difference such mitigation would make particularly in the summer months or warmer weather when windows and doors of the building may be open to provide a comfortable working environment. Additionally, this would not overcome the other sources of noise which could take place externally such as, comings and goings from non-residents above that ordinarily expected in a residential area, together with the possibility of increased activity such as doors opening and closing, people talking etc, at times when a quieter living environment could reasonably be expected.
11. For the reasons given above, I conclude that the proposal would harm the living conditions of neighbouring residents in relation to noise and disturbance. It would therefore conflict with Policy P10 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006) which together, amongst other matters, requires proposals to avoid problems of the loss of amenity. For the same reasons, the proposal would also conflict with the aims of chapter 12 of the National Planning Policy Framework relating to achieving well-designed places.

Highway safety

12. A small car parking area is available to the rear of the property which is associated with the residential use accommodating around 2-3 cars. Condition 4 restricts the use of the building to be operated by the resident of 60 Springfield Road, Deniz Osmanov and thus any associated parking/movements would not be any greater than existing.
13. The removal of condition 4 would however allow unlimited use of the site where there would be no control over parking/movements to and from the site. The development does not cater for additional parking and whilst I acknowledge the small-scale nature of the building and limited demand for parking by staff, this may be added to by deliveries to the business or if customers were to visit.
14. Traffic flows in both directions along Springfield Road and are relatively frequent along this stretch and its associated junctions. This is largely due to the fact that it is the main road serving a large number of properties including a larger housing estate beyond. At my site visit, I observed that there was pressure for on street parking in the vicinity and whilst a number of spaces were evident along Springfield Road, cars were parked on either side of the road in close proximity to the junction serving the site. This resulted in a reliance upon spaces between parked cars to allow vehicles to pass each other in opposite directions. In such circumstances, the increase in parking demand

and reduction in available passing places could result in a detrimental impact on the free flow of traffic requiring vehicles to often reverse towards the junction of Springfield Road close to the site where other vehicles may be entering and exiting thereby increasing the potential risk of accidents. The use may also encourage an increase in parking in locations close to the junction on Springfield Road that may unacceptably reduce visibility of cars approaching the junction in each direction which again could increase the risk of accidents.

15. For the above reasons, I conclude that the proposal would be prejudicial to highway safety. It would therefore be contrary to Policy T2 of the CS which amongst other matters, explains that new development should be located in locations which will not create or materially add to problems of safety, environment or efficiency on the highway network.

Other Matters

16. I have had due regard to all representations made and note the comments made in relation to the objections and petition in support of the scheme as well as noting the frustrations of the appellant. However, this would not alter my findings on the above. I have determined the appeal based on its merits and the evidence before me and I have identified the harm that would arise.
17. I understand that flexible working hours are vital for maintaining a healthy work/life balance, especially in a post covid world where working from home has become increasingly prevalent. However, this does not affect my findings on the main issues.
18. I note claims that the layout responds carefully to the neighbouring environment as well as noting the materials and appearance of the building along with matters in relation to privacy and unaltered landscaping. Such factors would however remain a neutral factor in my decision and would not outweigh the harm identified.

Conclusion

19. For the reasons given, having had regard to all other matters raised, the proposal would not accord with the development plan and the appeal should therefore be dismissed.

N Teasdale

INSPECTOR