



Appeal Decision

Site visit made on 24 October 2023

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/D1265/W/23/3319012

Weymouth Rugby Club, Monmouth Avenue, Weymouth, Dorset DT3 5HZ

- 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 Mrs Alison Hunter of Weymouth & Portland Rugby Club against the decision of Dorset Council.
 - The application Ref P/FUL/2022/03477, dated 6 June 2022, was refused by notice dated 23 February 2023.
 - The development is the change of use from club parking to café area and the placing of a steel box container & fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted on my site visit that the change of use has taken place and the steel box container and fencing have been installed. I have considered the appeal on the basis that planning permission is being sought retrospectively for the change of use of part of the car park to a café and the siting of the steel box container and fencing.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and odour.

Reasons

4. The appeal site is located adjacent to the entrance to the Weymouth & Portland Rugby Club car park. It fronts on to a dead-end road that provides access to recreational pitches and a walking and cycling route through to the Weymouth Gateway retail park and Weymouth Park & Ride. On the opposite side of the road is a housing estate. There is also a parking area between the site and the nearby residential properties.
5. The café consists of a metal box container where food is prepared and served through a hatch, and an outside seating area. The box container faces over the seating area towards the residential properties. The appellant confirms that there are toilet facilities available in the main rugby club building that are independently accessed from the rest of the building and that these facilities are available to patrons of the café. I am satisfied that this addresses one of the concerns raised by the Council.

6. In terms of noise disturbance, I observed that there is a sliding screen that would help muffle noise when closed. However, the seating area for the café is entirely outside and therefore there is no containment of noise created by patrons. As such, the site's close proximity to residential properties gives rise to the high potential for harmful noise disturbance to occur. This would be particularly the case during the summer months, when the nearby residents are most likely to be enjoying their private gardens and the café would be at its busiest.
7. On rugby match days there would be significant background noise resulting from the coming and going of fans and during the match itself. However, a match would typically only occur once or twice a week for part of the year and the café is open every day throughout the year. Training sessions would not create the same levels of noise as a match day due to the absence of fans and they would not have the same level of frequency as the overall operating hours of the café.
8. The road in front of the site is used by dog walkers and other members of the public. They would be walking closer to the boundaries of the residential properties but as they are passing by, the noise disturbance would be brief and not sustained like patrons sat down eating and drinking within the appeal site.
9. The Council has suggested a condition to control hours of use. Given that the condition would not address the issue of noise disturbance during opening hours, it would not be sufficient to mitigate against such an issue. There are no other mitigation measures before me that would be sufficient to address the unacceptable harm caused by the development, including the landscape planting that has taken place.
10. Turning to the matter of odour, cooking takes place within the confines of the box container. It is sited a sufficient distance from the residential properties to prevent undue levels of odour being noticed by nearby residents. I am therefore satisfied that the development does not create harmful levels of odour.
11. For these reasons, the development causes unacceptable harm to the living conditions of the occupiers of neighbouring properties. Consequently, the development conflicts with Policy ENV16 of the West Dorset Weymouth and Portland Local Plan 2015, which seeks, in part, for development to be designed to minimize their impact on the amenity and quiet enjoyment of existing residents. Additionally, it would conflict with the Framework, which seeks, amongst other things, to ensure that there is a high standard of amenity for existing users of development.

Other Matters

12. The development has social and economic benefits as it provides employment opportunities for local people and facilities for the local community to use and enjoy. Additionally, the location of the development adjacent to the entrance to the rugby club car park does allow some natural surveillance and in turn, security benefit. However, these benefits are limited and outweighed by the harm that I have identified.

13. I have found no harm in relation to any other aspect of the development. However, a lack of harm is neutral and weighs neither for nor against the development.
14. The appellant's concerns about how the application was dealt with by the Council is outside the scope of the appeal and is not determinative. The fact the Council own the land also does not alter my conclusions about the effect of the development. While the Officer may have recommended approval, elected Members are entitled to come to a different conclusion and I have considered the appeal on its own merits in any event.

Conclusion

15. For the reasons given above, the proposal conflicts with the development plan, when taken as a whole, and the Framework. There are no material considerations that would outweigh the conflict. Accordingly, I conclude that the appeal should be dismissed.

K Reeves

INSPECTOR