



Appeal Decision

Site visit made on 5 February 2024

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal Ref: APP/W4705/W/23/3332159

138 - 140 Thornton Road, Bradford, West Yorkshire BD1 2DX

- 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 Chai Village Ltd against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 23/00030/FUL, dated 4 January 2023, was refused by notice dated 10 July 2023.
 - The development proposed was originally described as “to form a café and late spot, including covered seating area and car parking to an otherwise vacant space located on Thornton Road. There will be an LED screen next to the café.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appeal site address in the heading above from the appeal form as this is a more accurate reflection of the site's location. On the application form the appellant confirms that the development has already taken place and has been completed. I noted on my site visit that the development had been carried out. From the evidence before me, it is clear that the proposal is to retain the development that has already occurred, and I have dealt with it on that basis.
3. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. In relation to this appeal the relevant parts of the Framework are similar. Consequently, I have not gone back to the parties for comments. Whilst I have had regard to the Framework in reaching my decision, no party would be prejudiced or caused any injustice by me taking this approach.

Main Issues

4. The main issues are the effect of the development on:
 - The character and appearance of the area, including whether it preserves or enhances the character or appearance of the Goitside Conservation Area (CA);
 - The living conditions of nearby residents, with particular reference to noise and disturbance; and
 - Highway safety.

Reasons

Character and appearance

5. As the proposal relates to a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The CA is situated to the edge of the city centre. Based on the evidence presented and my site visit observations, this part of the CA is characterised primarily by three-four storey traditional stone buildings, of a consistent form and scale, with slate roofs. The buildings generally reflect the industrial origins of the CA.
6. Whilst the site is located towards the edge of the CA, that does not undermine the requirements of the Act and relevant planning policy. The site was previously occupied by an industrial premises. It has been vacant for many years and therefore has not positively contributed to the CA for some time.
7. Stone cladding has been used to reflect buildings within area. Having said that, the design of the development, including materials such as the decking area and plywood canopy with artificial grass, are of poor quality which do not reflect the character and appearance of the CA. The low rise nature of the proposal also does not reflect buildings within the CA. Consequently, the development is poorly designed and fails to preserve or enhance the character or appearance of the CA, and causes harm to the character and appearance of the area.
8. Paragraph 205 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
9. Given the scale of the development, the site has not positively contributed to the CA and there are a mix of quality buildings within the vicinity of the site, the level of harm is less than substantial. Nonetheless, mindful of my statutory duties, this is a matter to which I attach considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
10. The appellant has not clearly outlined benefits of the proposal, but I acknowledge that there would be some limited public benefits of the scheme. Nonetheless, the benefits are not sufficient to outweigh the harm that I have identified.
11. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the development does not preserve or enhance the character or appearance of the CA, and causes harm to the character and appearance of the area. Consequently, the proposal fails to satisfy the requirements of the Act, paragraph 208 of the Framework and conflicts with Policies DS1 and EN3 of the Local Plan for the Bradford District: Core Strategy Development Plan Document (2017) (CS). These seek, amongst other things, to ensure proposals conserve or enhance heritage assets, and achieve good design.

Living conditions

12. Thornton Road is a busy road which contains a mix of uses. There are residential uses nearby, including towards the east and the student halls of residents on the opposite side of the highway. There are other uses such as a car wash and tyre service nearby which generate noise. Vehicles travelling along Thornton Road results in further background noise. My attention has also been drawn to the development at the nearby former Odeon cinema.
13. Paragraph 193 of the Framework states that decisions should ensure that new development can be integrated effectively. The development includes various open and outdoor aspects, such as an open seating area and a large outdoor screen. There is no clear information before me regarding the operating hours of the scheme, and the application form indicates that the hours of opening are unknown. The development is also described as a 'late spot' within the application form. This would suggest that there could be comings and goings from customers at hours when nearby residents would reasonably expect a degree of peace and quiet when they would wish to sleep.
14. The appellant highlights that the screen is used for advertising, with no sound. However, in contrast, the Council have highlighted that social media posts show late night boxing matches on the LED screen. The appellant has not disputed this being the case.
15. Given the residential uses nearby, outdoor aspects of the development, and limited information has been provided regarding how the site operates, it has not been demonstrated, such as through a noise impact assessment, that the development can integrate successfully with the nearby residential uses.
16. For these reasons, based on the evidence provided, the development would not provide acceptable living conditions for nearby residents, with particular reference to noise and disturbance. Consequently, it conflicts with Policies DS5 and EN8 of the CS. These seek, amongst other things, to ensure proposals do not harm the amenity of existing or prospective residents, and proposals which are likely to cause pollution (including noise) will only be permitted if measures can be implemented to minimise pollution and risk to a level that provides a high standard of protection for amenity.

Highway safety

17. The appellant highlights that there is a one-way vehicular system in place, and the drawings show the access points (marked as in and out). There are no directional signs or markings in place, or proposed, to make drivers aware of the one-way system. Furthermore, the layout of the parking spaces (as shown on the drawings) obstruct the ability for vehicles to turn easily onto Thornton Road. Thus, I am not satisfied that the development ensures safe and suitable access to and from the site. The surface of the parking area could be adequately addressed by a planning condition.
18. The appellant states that the screen is used for advertising, similar to others in the local area, but that contradicts the Council's findings that it has been used to show boxing matches. At the time of my site visit the screen was not in use. I am unable to make a robust assessment on whether it would distract drivers on Thornton Road as extremely limited information has been provided regarding the screen. The use of the screen for displaying non-advertisement

images, such as boxing matches, is likely to distract drivers on Thornton Road which could result in a highway safety risk.

19. The highways officer has highlighted that there was a similar proposal for advertising signs which was refused by the Council¹ and a subsequent appeal was dismissed by an Inspector. However, it is unclear whether the reasons for refusal related to highway safety.
20. For the reasons given above and based on the evidence provided, the development would have an unacceptable effect on highway safety. Consequently, the development conflicts with paragraphs 114 and 115 of the Framework. These state, amongst other things, that developments should ensure safe and suitable access to the site can be achieved for all users and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

21. The appellant highlights that a shipping container has been used to ensure that the building is only semi-permanent, and to allow for possible future development. In addition, they have drawn my attention to previous planning applications, frustrations with the Council (not given the opportunity to amend the proposal and received no correspondence). A support comment, from a local Councillor, states that the proposal would be a suitable use. The development before me includes elements that were not part of the previously approved application, and the highlighted other matters do not outweigh the harm I have found above.

Conclusion

22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR

¹ 09/01485/ADV