



Appeal Decision

Site visit made on 30 April 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/T2350/W/24/3337333

9 Birtwistle Terrace, Langho, Blackburn, Lancashire BB6 8BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Neil Greenlees against the decision of Ribble Valley Borough Council.
 - The application Ref is 3/2023/0928.
 - The application sought planning permission for change of use and conversion of domestic dwelling into hairdressing salon without complying with a condition attached to planning permission Ref 3/2022/0873, dated 17 May 2023.
 - The condition in dispute is No 5 which states that: the use hereby permitted shall only take place between the following hours: 0900 and 1700 Tuesday - Friday and 0900 and 1500 on Saturdays, and at no time on Sundays and Bank Holidays.
 - The reason given for the condition is: in the interests of the living conditions of surrounding residential occupiers.
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Decision

1. The appeal is allowed and planning permission is granted for change of use and conversion of domestic dwelling into hairdressing salon at 9 Birtwistle Terrace, Langho, Blackburn, Lancashire BB6 8BT in accordance with the application Ref 3/2023/0928 without compliance with condition number 5 previously imposed on planning permission Ref 3/2022/0873 dated 17 May 2023 and subject to the attached schedule of conditions.

Preliminary Matters

2. The Council refused application ref 3/2022/0873 for the change of use from a domestic dwelling to a hairdressing salon. However, this decision was overturned on appeal¹ and planning permission was therefore granted. I noted from my site visit that the hair salon is now operating from the appeal site.
3. The appellant is seeking to extend the opening hours from between 9am and 5pm Tuesday to Friday and 9am to 3pm on Saturday, as restricted by condition 5 of the planning approval, to between 9am and 6pm on Tuesday and Friday, 9am to 8pm on Wednesday and Thursday, and 9am to 4pm on Saturday.

Main Issue

4. The main issue is the effect that varying the opening hours of the hair salon would have on the living conditions of neighbouring occupiers, with regard to noise and disturbance.

¹ APPEAL REF: APP/T2350/W/22/3313514

Reasons

5. The appeal site relates to a two-storey end terraced property in Langho on a busy main road, with passing traffic and vehicle movements. The surrounding area is predominantly residential, but there are a number of commercial properties located within approximately 100m of the appeal property, which include a pharmacist, a restaurant and other hair and beauty salons.
6. The proposed extension of the opening hours of the salon would enable it to operate into the evening in order to accommodate customers that may require appointments outside of regular working hours, or who may require lengthier appointments. There would, therefore, be a greater potential for the use to encroach towards the later evening hours when neighbouring occupiers could reasonably expect not to experience any degree of noise or disturbance from a non-residential use.
7. However, the appeal property is limited in size, which in turn limits the scale of operations that can take place, the number of clients that can be accommodated, and the frequency of comings and goings. The maximum number of stylists and clients who can use the salon at any one time is six people. The additional opening hours would not involve more staff working or more clients being on the premises at any one time.
8. The operation of the business until 8pm would be in place 2 days every week, with an extension to 6pm on 2 evenings and an extension until 4pm on Saturday. This would represent a relatively limited extension to the hours during which the use could occur and would not result in a significant increase in activity.
9. As clients would have appointments, this would limit the number of people who would be in the salon during the extended opening hours. The appellant has described how a balayage hair colouring appointment can typically last around 3 hours. On this basis, there could only be one or two customers arriving at and leaving the site in the evening. This level of activity would not harm the living conditions of occupiers of neighbouring residential dwellings.
10. The noise of clients parking their vehicles, opening and closing doors, or starting their car engines is not likely to be overly perceptible during the proposed opening times. Whilst there would be noise generated within the property, such as background music, and from hair driers, telephone calls and chatting. This would not be at a level that would disturb neighbouring occupiers.
11. I note that the Inspector for the earlier appeal, granting permission for the change of use to a hairdressing salon, imposed a condition controlling the days and times of use in the interests of the living conditions of surrounding residential occupiers. However, for the reasons outlined above, I have arrived at a different conclusion.
12. I therefore conclude that the proposed extension of operating hours would not cause harm to the living conditions of neighbouring occupiers as a result of noise and disturbance. Accordingly, there would be no conflict with Policy DMG1 of the Council's Core Strategy 2008-2028 A Local Plan for Ribble Valley (2014) which requires all proposals to consider the effects of development on existing amenities. It would also accord with paragraphs 135 and 191 of the

National Planning Policy Framework, which seek to ensure a high standard of amenity for existing users and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Other Matters

13. Whilst the Council maintain their stance that the change of use is incompatible with the residential character of the area, the Planning Practice Guidance (PPG) is clear that under s73 of the Town and Country Planning Act 1990 only the disputed condition of the subject of the application is to be considered. I note concerns relating to loss of privacy, comments regarding the number of other hair dressing salons in the locality, and concerns regarding the proposal's location away from the commercial nucleus of Langho. However, the use as a hairdressing salon is established, and therefore the appeal can only consider the proposed increase of hours. As such these matters have had no bearing on my decision.
14. The Council did not refuse the variation of condition application on highway or parking grounds. Whilst I am therefore not required to consider this matter further, parking is a matter of concern amongst several residents, and there are no specific parking spaces for use by clients. However, a number of properties have off-street parking, on-street parking is available, and there are no parking restrictions on the road by the site. Extension of the opening hours would therefore not result in an increase in the number of customers parking on the road, to such an extent it would lead to severe parking issues, even at a time when neighbouring residents may be home from work. I note that Lancashire County Council Highways did not raise highway or parking concerns, and I see no reason to disagree.
15. Reference is made to the appellant applying for the original opening hours at the time of the original application. Be that as it may, it does not prevent a proposal to modify the previous permission from coming forward, which is to be considered on its own merits. Any further applications for extending opening hours would likewise be considered separately and on their own merits in accordance with the development plan and any material considerations.
16. I note the comments from interested parties regarding a suggested breach of the existing planning permission and to building regulations and enforcement issues, but these are matters outside the remit of this appeal.

Conditions

17. The PPG makes clear that decision notices for the grant of planning permission under s73 should also repeat the relevant conditions from the original permission that continue to have effect. I shall impose all those that I consider remain relevant.
18. As the permission has been implemented, the standard commencement condition and the condition regarding the materials to be used in its construction are no longer necessary. I have listed the approved plans the subject of this appeal for the avoidance of doubt and in the interests of certainty.
19. Conditions controlling the use of the first floor and delivery times remain necessary in the interests of protecting the living conditions of neighbouring occupiers. However, as the change of use has been undertaken, I have

removed mention of construction and engineering works. I have varied the original condition number 5, regarding opening times to reflect the revised hours of operation, and to ensure that the living conditions of the occupiers of neighbouring dwellings are protected. This is now condition number 3.

20. I have reimposed conditions controlling the use to that falling within Class E (c) (ii) of the Use Classes Order and for the storage of refuse bins within the site in the interests of the character and appearance of the area and pedestrian safety.

Conclusion

21. For the reasons given I conclude that the appeal should be allowed. I will grant a new planning permission substituting a condition regarding opening hours and restating those undisputed conditions that are still subsisting and capable of taking effect.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Scale 1:1250), Site Plan (Scale 1:500) and Proposed Plan and Elevations (Drawing No: 22X048-002 Rev/Issue No: A).
- 2) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (as amended or re-enacted) the area indicated on Proposed Plan and Elevations (Drawing No: 22X048-002 Rev/Issue No: A) shall only be used for the provision of professional services E(c) (ii) and for no other purpose, including any other purpose within Use Class E.
- 3) The use hereby permitted shall only take place between the following hours: 9am to 6pm Tuesday; 9am to 8pm Wednesday and Thursday; 9am to 6pm Friday; and 9am to 4pm on Saturdays; and at no time on Sundays or Public Holidays.
- 4) The first-floor area of the premises hereby permitted shall be used for ancillary storage only and for no other purpose.
- 5) All refuse/recycling bins shall be kept within the confines of the site, except on the appropriate collection day.
- 6) No deliveries to and from the site shall occur other than between 8am and 6pm Monday-Friday, and 9am and 1pm on Saturdays, and at no time on Sundays or Public Holidays.

*****END OF SCHEDULE*****